

**SRF Round 2 Iowa Air Program**  
**FY08**

**Final Report**  
**September 24, 2009**

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## **I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and, penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

### **A. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS**

- **Priorities:** The Iowa air quality program has established enforcement priorities for High Priority Violations (HPV) as defined by EPA’s HPV Policy. Chronic or repeat violators are also a priority.
- **Accomplishments:** EPA has recently finalized some areas source NESHAPs that apply to several minor sources of air emissions in the state. In response to the new regulations and the number of affected facilities, the Air Quality Bureau formed a workgroup to interpret the new regulations, determine which facilities may be subject, and provide outreach and assistance.
- **Best Practices:** In 2005, the compliance section participated in a Legal Services process improvement event (Kaizen) to improve the enforcement process, establish enforcement priorities for each program, and get consistency in enforcement actions. Other activities that have improved the state’s ability to monitor and ensure compliance involved the development of

new databases and the practice of field auditing stack tests.

- **Element 13:** The IDNR has not submitted any information under Element 13.

## **B. SUMMARY OF RESULTS**

- There is one in-progress action and one unresolved action that remain in the SRF Tracker from the previous SRF review. These actions are (1) the state's failure to take timely and appropriate enforcement action for High Priority Violations and (2) the state's failure to collect penalties for some emissions violations detected during stack tests although the violations are designated as High Priority Violations. The state usually addresses the unresolved action by re-permitting at a high emission limit. In considering this outstanding issue, it should be noted that part of the reason for the state's resolution of these violations in this manner is the aggressive permitting of these emission points by the state at initial permit issuance.
- There were 8 elements that "Met SRF Program Requirements".
- Element 1: Data Completeness, Degree to which the Minimum Data Requirements are complete.
  - a. Finding 1-1: For the seven metrics that listed a National Goal and National Average, the state exceeded the National Goal for 3 metrics and exceeded the National Average for all seven metrics.
  - b. Recommendation 1-1: None
- Element 3: Timeliness of Data Entry. Degree to which Minimum Data Requirements are timely.
  - a. Finding 3-1: For the 3 metrics that listed a National Goal and National Average, the state exceeded the National Average for 2 of the 3 metrics.
  - b. Recommendation 3-1: None
- Element 4: Completion of commitments. Degree to which all enforcement/compliance commitments in relevant agreements are met with any products or projects completed.
  - a. Findings 4-1: The relevant agreement is the CAA Section 105 Grant Work Plan. The state routinely meets all commitments in the Section 105 Grant Work Plan.
  - b. Recommendation 4-1: None
- Element 5: Inspection coverage. Degree to which state completed the universe of

- planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities.
- a. Finding 5-1: For the 5 metrics that listed a National Goal and National Average, the state exceeded that National Goal for Full Compliance Evaluations at Majors, fell within the National Goal “range” for Full Compliance Evaluations at Synthetic Minor 80% sources, and reviewed 99.6% of the Self-Certifications submitted.
  - b. Recommendation 5-1: None
- Element 6: Quality of inspection or compliance evaluation reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate descriptions of observations.
    - a. Findings 6-1: The state inspection report is used as the compliance evaluation report and includes all required information. The completed reports are sent to the facility within one week of the inspection.
    - b. Recommendations 6-1: None
  - Element 9: Enforcement actions promote return to compliance. Degree to which state enforcement actions include required correction actions (i.e. injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.
    - a. Findings 9-1: Any violation that is identified usually results in the issuance of a Notice of Violation (NOV) which includes a response and/or corrective action due date. All Consent Orders include a return to compliance due date.
    - b. Recommendations 9-1: None
  - Element 11: Penalty calculation method. Degree to which state documents in its files that initial penalty calculation included both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.
    - a. Findings 11-1: The state’s penalties are based on the Iowa Administrative Code (IAC) sections 455B.109 and 455B.146. IAC 455B.109 allows for the administrative assessment of penalties of not more than \$10,000 for violation of rules, permits or orders and requires the consideration of the factors economic benefit, gravity and culpability when proposing or assessing penalties. The Region’s periodic review of the documents supporting an enforcement action which includes a penalty

documents that the above factors are considered in assessment of a penalty.

b. Recommendations 11-1: None

- Element 12: Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

a. Finding 12-1: The differences between the initial penalty assessed and the final penalty collected as well as documentation that the final penalty was collected are documented in the files of the legal staff assigned to the Air Quality Bureau.

b. Recommendation 12-1: None

- There were 5 elements for “State Improvement – Recommendations Required”.
- Element 2: Data Accuracy, Degree to which Minimum Data Requirements are accurate.

a. Finding 2-1: For the two metrics that listed a National Goal, the state met the National Goal. However, data is not accurately entered into the data system, specifically relating to compliance status information.

b. Recommendation 2-1: The State will advise the data entry operator on the nature of the problems and how they can be addressed. This action was completed immediately following the on site review. State management will conduct periodic checks on data entry at least twice throughout the next fiscal year to ensure that the compliance status is being properly reported. The state will report back to Region 7 on the results after each of their data entry reviews. The region will follow up accordingly.

- Element 7: Identification of alleged violations; degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

a. Finding 7-1: The compliance status of several facilities was not accurately reflected in AFS following identification of a violation

b. Recommendations 10-1: The state will advise the data entry operator on the nature of the problems and how they can be addressed. This action was completed immediately following the on site review. State management will conduct periodic checks on data entry at least twice throughout the next fiscal year to ensure that the compliance status is being properly reported. The state will report back to Region 7 on the results after each of their data entry reviews. The region will follow up

accordingly.

- Element 8b. High Priority Discovery Rate – Per Synthetic Minor Source
  - a. Finding 8-1: Data Metric 8b suggested that the state was not identifying enough violations at Synthetic Minor sources when compared to the National Goal and National Average. The File Review found that the state incorrectly designated 73% of the violations identified at Synthetic Minor sources due to a Region/State misunderstanding of the HPV General Criteria for violations at Synthetic Minor sources.
  - b. Recommendation 8-1: The State should correctly implement the HPV Policy with special attention paid to General Criteria 3. Beginning with the August, 2009, EPA/State every other month enforcement coordination conference call, EPA and the State will discuss violations and correctly implement the HPV Policy for violations at SM 80 sources. The state now fully understands the meaning of General Criteria 3 and feels no additional HPV training is needed.
- Element 8d: Percent Informal Enforcement Actions Without Prior HPV – Majors
  - a. Finding 8-2: Data Metric 8d showed that the percentage of Major sources that received informal enforcement actions such as Notices of Violation that were subsequently not designated as High Priority Violators was higher than the National Goal and National Average for this Metric.
  - b. Recommendation 8-2: The State should scrutinize minor violations at Major sources to make sure a HPV designation is not appropriate.
- Element 10: Timely and appropriate action. Degree to which state takes timely and appropriate enforcement action in accordance with the HPV Policy.
  - a. Finding 10-1: The Data Metrics showed that for FY2008, the State did not meet the timeliness goals 45.8% of the time compared to the national average of 39.5%. This was supported by the File Review that showed that for the three files reviewed with High Priority Violations identified, two had exceeded the Day 270 requirement to address the violation.
  - b. Recommendation 10-1: The State case development officer and assigned attorney need to be made aware of the Day 270 deadline on a regular basis to try to improve timeliness. A protocol needs to be established to accomplish this. The protocol must be submitted to the region by December 31, 2009. The state also needs to actively pursue its recent process of hiring legal interns to support its regular legal staff.

## **C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS**

Reserved for Multi-Media report.



## II. BACKGROUND INFORMATION

### ON STATE PROGRAM AND REVIEW PROCESS

#### A. GENERAL PROGRAM OVERVIEW

- **Agency Structure:** The Iowa Department of Natural Resources (IDNR) is organized into three divisions, the Conservation and Recreation Division, the Environmental Services Division and Management Services Division. Each Division is organized in turn into Bureaus. The Air Quality Bureau and the Field Services and Compliance Bureau are included under the Environmental Services Division. Legal Services is located within the Deputy Director's office. The Air Quality Bureau, Field Services and Compliance Bureau and Legal Services are the organizations involved in this SRF review of the air compliance and enforcement program.
  
- **Compliance/Enforcement Program Structure:** The air compliance and enforcement program consists of a central office enforcement and compliance unit, six Field Offices distributed throughout the state, and a central office legal group. The enforcement and compliance unit is organized as the Compliance and Monitoring Section under the Air Quality Bureau. The Compliance and Monitoring Section consists of four compliance staff 4 stack test observers/auditors, and one data entry operator. The six field offices are organized under the Field Services and Compliance Bureau and include at least one inspector in each Field Office with some responsibility for air quality matters. Two attorneys are assigned to the Air Quality Bureau from Legal Services and answer directly to the Chief, Air Quality Bureau. It is important to note that although the Compliance and Monitoring Section regularly coordinates with the Field Offices in the Field Services and Compliance Bureau, this organization is located outside the Air Quality Bureau and has separate management.
  
- **Roles and responsibilities:** The Field Offices perform all IDNR air quality inspections and respond to citizen complaints. The enforcement response to any violation identified in an inspection generally follows the

guidance in the Air Quality Inspector's Handbook. The Air Quality Inspector's Handbook is somewhat dated.

The Compliance and Monitoring Section pursues enforcement actions based upon review of facility submittals such as Title V certifications, Excess Emission Reports, stack test reports and MACT compliance reports, and referrals from the Construction Permit and Operating Permit Sections. The response to any violations identified generally follow the Air Quality Inspector's Handbook (state), the Enforcement Procedures for Late Title V Reports (state guidance), and the Timely and Appropriate (T&A) Enforcement Response to High Priority Violation (state guidance).

The attorneys develop administrative orders, penalty orders, consent agreements and referrals to the Attorney General's office based on information received from the Field Offices and the Compliance and Monitoring Section. Referrals to the Attorney General's office must be approved by the Environmental Protection Commission before going to the Attorney General's office.

- **Local Agencies included/excluded from review:** The air compliance and enforcement programs for Polk and Linn counties, Iowa, are delegated by the IDNR to the Polk County Public Works Department, Air Quality Division and the Linn County Public Health Department, Air Quality Division, respectively. In accordance with the January, 2008 EPA document "Guidelines for Including Local Agencies in the State Review Framework", these programs will receive separate SRF reviews in Federal Fiscal Year 2010 or later. However, non-SRF reviews of these programs were conducted in the Fall, 2008.
  
- **Resources:**
  - FTE in Air Quality Bureau: 4 FTE compliance staff, 4 FTE stack test observers/auditors, 1 FTE AFS database entry, 1 FTE supervisor
  - FTE in Field Services Bureau (Field Offices): 9 FTE inspectors, 0.5 FTE air quality enforcement coordinator
  - FTE in Legal Services (including Attorney General's office): 1.75 FTE attorneys

- FTE per Field Office: The IDNR has six Field Offices that conduct the air quality inspections. The 9.5 FTEs assigned to the Field Offices are almost evenly divided, or approximately 1.5 FTE per office. The Field Offices with more major sources may get more hours than the others depending on inspection schedules and needs.
  - Source Universe: The source universe includes 289 Major (Title V) facilities, 1,445 80% Synthetic Minor facilities, and minor facilities. In addition to routine inspections, the Field Office staff follow-up on several types of air-related complaints such as open burning. The majority of the inspections conducted are for Major and 80% Synthetic Minor facilities as called for in the EPA Compliance Monitoring Strategy.
  - Workload Distribution: The number of inspections for which an individual inspector is responsible for annually can vary depending on the number of staff assigned in a particular office to do air work.
  - Constraints: Most of the inspections conducted by Field Office staff are for Major and 80% Synthetic Minor sources. However, Iowa has a large number of smaller sources that have not been inspected in recent years. In addition, many of these smaller sources are subject to new area source NESHAP standards. Additional funding is needed to support more compliance assistance and enforcement for this sector.
- **Staffing/Training:**
    - Staffing: The program is currently fully staffed but due to economic times and budget constraints, the IDNR is under a hiring freeze. Filling any future vacancies will be difficult.
    - Hiring and Maintaining Staff: The IDNR has assembled a “Hiring Team” to help supervisors facilitate the state hiring process and recruit qualified candidates. The Hiring Team has significantly reduced the amount of time it has taken to fill vacancies. Staff training starts immediately after hiring with beginner courses and continues throughout the career with intermediate and advanced trainings as they are available and as funding allows. Training is a combination of self-study and classroom courses taken in-house, through contractors, or EPA sponsored. All Field Office staff and some central office staff are required to take the EPA HAZWOPER 40 hour course with an 8 hour refresher each year.

- **Data reporting systems/architecture:** The Compliance and Monitoring Section is a direct user of AFS. The CAA Section 105 grant work plan entered into bi-annually between Region 7 and the IDNR requires MDRs be entered for minor and Synthetic Minor facilities. IDNR's Title V program application also included a commitment to enter MDRs into AFS for all Major sources. Region 7's weekly review of the AFS Critical Data Element Report AFP646 suggests that IDNR enters all MDRs for all facilities timely.

## **B. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS**

- **Priorities:** The air quality program has established enforcement priorities for High Priority Violations (HPV) as defined by EPA's HPV Policy. Chronic or repeat violations are also a priority. These priorities were developed with input from both field and central office staff and are evaluated annually.
- **Accomplishments:** EPA has recently finalized some area source NESHAPs that apply to several minor sources of air emissions in the state. Examples include the Miscellaneous Surface Coating and the Gasoline Distribution Facilities NESHAPs. In response to the new regulations and the number of affected facilities, the Air Quality Bureau formed a workgroup to interpret the new regulations, determine which facilities may be subject, and provide outreach and assistance. This early investment in compliance assistance activities will give the facilities the tools and information needed to be in compliance with these regulations. The workgroup will continue to evaluate new NESHAPs and NSPS regulations as they are finalized.
- **Best Practices:** In 2005 the compliance section participated in a Legal Services process improvement event (Kaizen) to improve the enforcement process, establish enforcement priorities for each program, and get consistency in enforcement actions. The IDNR continues to refine this process and has seen significant improvements in efficiency at resolving cases and obtaining compliance. In addition, the referrals developed by staff are reviewed and approved by enforcement coordinators for each program prior to sending to Legal Services. This has helped establish consistency in enforcement actions.

Another activity that has improved IDNR's ability to monitor and ensure compliance involves the development of new databases. The Field Services Bureau (Field Offices) has completed the development of a new database to

track compliance activities in response to inspections or complaints at facilities. In addition, the Air Quality Bureau is in the process of developing a new stack test database to track testing requirements, testing violations, and summarize test results. These two databases will improve IDNR's ability to track violations and seek a timely resolution.

Another item to note is IDNR's practice of field auditing stack tests conducted at facilities to determine compliance with permitted emission limits. This ensures the tests are conducted in accordance with the method and equipment is operating at or near maximum capacity. The Air Quality Bureau has been able to field audit approximately 80% of the compliance tests conducted each year. All of the stack test reports submitted following a compliance test are reviewed in the office.

- **Element 13:** The state has not submitted any information under Element 13.

### **C. PROCESS FOR SRF REVIEW**

- **Review Period:** The 2008 Iowa CAA SRF Review was based on the CAA Official Data Set (ODS) for 2008.
- **Key Dates:** The SRF review process began in the Fall, 2008 with the informal transmittal of the 2007 CAA Official Data Set to give the IDNR a heads up of what might be expected in the 2008 Data Metrics. The kick-off letter forwarding the 2008 CAA ODS pulled on January 14, 2009 was sent to the IDNR on January 21, 2009. The IDNR responded to the kick-off letter on January 26, 2009 (attached) and stated that after review of the ODS, it agreed that the data set was appropriate for the SRF. A second letter enclosing the preliminary analysis of the state data metric results, the Region's focus areas for the upcoming on-site file review and the list of files that have been selected for review was sent to the IDNR on February 2, 2009. The file review was conducted on February 24-26, 2009 and the closeout meeting on February 26, 2009.
- **Communication with the State:** The SRF review process began in the Fall, 2008 with the informal transmittal of the 2007 CAA Official Data Set to give the IDNR a heads up of what might be expected in the 2008 Data Metrics. Dennis Thielen, the Unit Leader for air compliance, was the principal contact at the IDNR for the review and Michael Bronoski and Angela Catalano were the

principal reviewers from the Air Permitting and Compliance Branch in the Region.

### III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Iowa’s air compliance and enforcement programs, Region 7 and state identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

State	Status	Due Date	Media	Element	Title	Finding
IA - Round 1	Completed	01/31/08	CAA	Inspection Universe	Multiple FCEs at same facility during the same year	More than one FCE conducted at the same Title V facility in any year.
IA - Round 1	In progress	01/31/08	CAA	Timely & Appropriate Actions	Timely action taken to address HPV sources	The state's performance of 47.4% fell slightly below the national average of 48.5% for FY05
IA - Round 1	Unresolved	12/31/2008	CAA	Penalties	Percent (HPV) actions with penalties.	The state's 44.4% performance fell below the national average of 79.5% for FY05. Much of this low performance is due to the fact that the state does not usually assess penalties for failed stack tests where the source can be re-permitted at a higher emission limit.

The Region and the state continue to try to improve on the 2<sup>nd</sup> issue (Timely action taken to address HPV sources). The Region continues to list the Day 270 date in the enforcement summary document that is used as the basis for the every-other-month EPA/State enforcement call to remind the legal staff of the HPV timeliness criterion. The state also has begun to hire legal interns to support the regular legal staff and plans to continue this practice.

The state discussed the 3<sup>rd</sup> issue (Percent HPV action with penalties) most recently in an April 7, 2009 e-mail from the Air Quality Compliance and Monitoring Section Chief that read “...I also don’t believe this is a fair assessment of our program. As you know, in Iowa we issue Notices of Violation (NOVs) for any air violation at a facility. Our policy is to address each violation in a formal manner. I receive many calls from industry wanting to know why Iowa issued NOVs when other state and local programs only issue NOVs if they are going to refer for penalty. This would seem to indicate there are many violations that don’t get entered in AFS. If Iowa only issued NOVs for cases we referred for a penalty our “SRF score” would be much better. I have also discussed this issue with other agencies. Some may not even issue a NOV for a failed stack test if the permit can be modified. Again, I don’t think EPA is getting the information from all states to do a meaningful national comparison. Iowa also issues pre-construction permits and it can difficult to know the true emission rate until tested.”

EPA will follow-up with the state on this issue in FY 2010 in order to reach resolution.

**IV. FINDINGS AND RECOMMENDATIONS**

**Element 1: Data Completeness. Degree to which the Minimum Data Requirements are complete.**

1-1	Finding	.
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	For the seven metrics that listed a National Goal and National Average, the state exceeded the National Goal for 3 metrics and exceeded the National Average for all seven metrics.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

**Element 2: Data Accuracy. Degree to which Minimum Data Requirements are accurate.**

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2-1	Finding	.
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	<p>For the two metrics that listed a National Goal, the state met the National Goal. However, see also Element 7-1; data is not accurately entered in the data system, specifically relating to compliance status information.</p> <p>Recommended action: The state needs to address these problems with the data entry operator.</p>
	Metric(s) and Quantitative Value	
	State Response	The State agrees that this is a problem and has agreed to address it.
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	The state will advise the data entry operator on the nature of the problems and how they can be addressed. This action was completed immediately following the on site review. State management will conduct periodic checks on data entry at least twice throughout the next fiscal year to ensure that compliance status is being properly reported. The state will report back to Region 7 on the results after each of their data entry reviews. The region will follow up accordingly.

<b>Element 3: Timeliness of Data Entry. Degree to which Minimum Data Requirements are timely.</b>		
3-1	Finding	

	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	For the 3 metrics that listed a National Goal and National Average, the state exceeded the National Average for 2 of the 3 metrics.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

**Element 4: Completion of commitments. Degree to which all enforcement/compliance commitments in relevant agreements are met any products or projects completed.**

4-1	Finding	
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention

		<input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	The relevant agreement is the CAA Section 105 Grant Work Plan. The state routinely meets all the commitments in the Section 105 Grant Work Plan.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

<b>Element 5: Inspection coverage. Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).</b>		
5-1	Finding	
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention

		<input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	For the 5 metrics that listed a National Goal and National Average, the state exceeded the National Goal for Full Compliance Evaluations at Majors, fell within the National Goal “range” for Full Compliance Evaluations at Synthetic Minor 80% sources, and reviewed 99.6 % of the Self-Certifications submitted.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

**Element 6: Quality of inspection or compliance evaluation reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate descriptions of observations.**

6-1	Finding	
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required

	<p>Explanation If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)</p>	<p>The state inspection report is used at the compliance evaluation report and includes all required information. The completed reports are sent to the facility within one week of the inspection.</p>
	<p>Metric(s) and Quantitative Value</p>	
	<p>State Response</p>	<p>None</p>
	<p>Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>None</p>

**Element 7: Identification of alleged violations; degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.**

<p>7-1</p>	<p>Finding</p>	<p>Data is not accurately entered into the data system, specifically relating to compliance status information; this is significant because it has the effect of showing an incorrect or better-than - actual historical compliance status for a facility. The file review analysis identified this finding.</p>
		<p><input type="checkbox"/> Good practice Meets the SRF Program Requirements Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendation required</p>

	Explanation	<p>The State felt that part of this problem was due to the common scenario where a violation identified during an inspection was corrected by the time the inspection was actually entered as an MDR in the AFS database. For example, given the scenario where an inspection identified a recordkeeping violation and the facility provided the records a day later, the data entry operator should correctly enter the inspection, change the compliance status to show the non-compliance, and then immediately change the compliance status back to in-compliance all in the same data entry session. What is happening now is that the compliance status is never changed since the facility goes back into compliance almost immediately. The CAA/AFS MDR requires reporting of violations and compliance status change within 60 days of discovery/determination of the violation. This is strictly a data entry problem and does not reflect a state policy. A review of historical Compliance Status associated with failed stack tests also showed that the state was regularly using the wrong code for Compliance Status.</p> <p>Recommendation: The State needs to address these problems with the data entry operator.</p>
	Metric(s) and Quantitative Value	<p>There is no Data Metric that addresses this finding.</p> <p>File Metric 7b -- % of files reviewed where mandatory data are accurately reflected in the national data system. Value: 37.5% of data were inaccurately reflected in the national data system</p>
	State Response	<p>The state agrees that there are some problems with entering the correct Compliance Status.</p>
	Actions(s)	<p>The state will advise the data entry operator on the nature of the problems and how they can be addressed. This action was completed immediately following the on site review. State management will conduct periodic checks on data entry at least twice throughout the next fiscal year to ensure that compliance status is being properly reported. The state will report back to Region 7 on the results after each of their data entry reviews. The region will follow up accordingly.</p>

**Element 8: Identification of SNC and HPV; degree to which the state accurately identifies significant noncompliance & high priority violations and enters information into the national data system in a timely manner.**

8-1	Finding	<p>The File Review found that the State was not properly designating violations at Synthetic Minor 80 (SM80) source as HPVs.</p>
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		<p>Good practice</p> <p>Meets the SRF Program Requirements</p> <p>Area for State Attention</p> <p>X Area for State Improvement – Recommendations required</p>
	Explanation	<p>Data Metric 8b suggested that the State was not identifying enough SM80s as HPVs compared to the National Average. Prior to this 2009 program review, EPA and the State were only designating violations at SM80 sources as HPVs if an emission violation exceeded the PSD threshold, or for recalcitrance. Upon rereading General Criteria 3 of the HPV Policy, it was learned that a SM80 source should be designated a HPV for [any] “Violation by a synthetic minor of an emission limit or permit condition that affects the source’s PSD/ NSR or Title V status....[and]... It is not necessary for a source’s actual emission to exceed the NSR/PSD.Title V thresholds.” When this criterion was applied to the 13 SM80 files reviewed during the File Review, the review suggested that an additional 9 SM80 facilities with violations could have been identified as HPVs and an additional 2 might have been designated as HPV for a total of 11 of 15 or 73%. Clearly, correct application of the HPV criterion will bring the State’s Data Metrics in line with the Goals and National Average for identification of HPVs at SM80 sources</p> <p>Recommendation: The state should correctly implement the HPV Policy with special attention paid to General Criteria 3.</p>
	Metric(s) and Quantitative Value	<p>Data Metric 8b – High Priority Discovery Rate Per Synthetic Minor Source. Value: 0.1%. National Average: 0.7%. National Goal: &gt;1/2 National Average = 0.35%</p> <p>File Metric 8f -- % of violations in Synthetic Minor source files that were accurately determined to be HPV Value: 0%</p>
	State Response	None
	Actions(s)	<p>The state should correctly implement the HPV Policy with special attention paid to General Criteria 3. Beginning with the August, 2009, EPA/State every other month enforcement coordination conference call, EPA and the State will discuss violations and correctly implement the HPV Policy for violations at SM 80 sources. The state now fully understands the meaning of General Criteria 3 and feels no additional HPV training is needed.</p>

8-2	Finding	The number of Major sources that received informal enforcement actions but were not designated as HPVs was higher than the National Goal and the National Average
		<p>Good practice</p> <p>Meets SRF Program Requirements</p> <p>Area for State Attention</p> <p><b>X</b> Area for State Improvement – Recommendations required</p>
	Explanation	Data Metric 8d showed that the percentage of Major sources that received informal enforcement and were not designated as HPVs was almost twice as high as the National Average and three times as high as the National Goal.
	Metric(s) and Quantitative Value	Data Metric 8d – Percent Informal Enforcement Actions Without Prior HPV – Majors. Value: 77.1%. National Average: 41.1%. National Goal: < ½ National Average = 20.55%
	State Response	<p>The state did an analysis of the reason for the 54 informal enforcement actions issued to Major sources that did not result in a HPV designation. Eleven (11) of these informal enforcement actions were for failure to obtain a minor pre-construction permit which does not meet the General HPV criteria. Eighteen (18) of these informal enforcement actions were for late payment of Title V fees (7), late annual certification or semi-annual monitoring reports (6) and late submission of emission inventories (5). Late payment of permit fees and late submission of emission inventories are not addressed by any of the General HPV Criteria. The state does not feel that late submittal of annual certifications or semi-annual monitoring reports is significant under General Criterion 5 unless it is a repeating violation. In this case, the state does designate sources that are repeatedly late as HPVs. Eight of these informal enforcement actions were for recordkeeping violations which the state felt did not meet the “substantially interfere” portion of General HPV Criteria 7 because of the nature of the recordkeeping. Subtracting these 11+18+8= 37 informal enforcement actions from the total of 54 brings the average to 24.2% or well below the National Average and only slightly above the National Goal.</p> <p>Recommendation: The State should scrutinize minor violations at Major sources to make sure a HPV designation is not appropriate.</p>
	Actions(s)	The state will pay closer attention to evaluating these violations as to whether or not they should be designated as HPVs. The Region will also focus on the issue on the every-other-month State/EPA enforcement coordination teleconferences.



**Element 9: Enforcement actions promote return to compliance. Degree to which state enforcement actions include required corrective action (i.e. injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.**

9-1	Finding	.
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	Any violation that is identified usually results in the issuance of a Notice of Violation (NOV) which includes a response and/or corrective action due date. All Consent Orders include a return to compliance due date.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

**Element 10 - Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with the HPV Policy.**

10-1	Finding	The State performs below the national average in addressing HPVs timely.
		<p>Good practice</p> <p>Meets SRF Program Requirements</p> <p>Areas for State Attention</p> <p><input checked="" type="checkbox"/> Areas for State Improvement – Recommendations required</p>
	Explanation.	<p>The Data Metric indicates that the State performed less than the national average in addressing HPVs timely. The File Metric indicated the same for the 3 HPV files that were reviewed. The Region believes that the problem is due to at least two reasons: (1) only two attorneys are assigned to perform all legal work in support of the Air Quality Bureau. This number increased by one attorney in the early 2000's partly as a result of the Region's comments on this problem in the past and (2) certain violations just take more time than others to follow through on once the violation has been identified as a HPV. For example, a failed stack test that results in an immediate HPV designation may require one or more re-tests before the enforcement action is decided upon, which takes time.</p> <p>Recommendation: The Day 270 date is highlighted in the enforcement summary document prepared by the Region that is used for the every-other-month State/EPA enforcement coordination calls. The State case development officer and assigned attorney need to be made aware of this Day 270 date on a regular basis in order to try and improve timeliness. The State also needs to actively pursue its recent process of hiring legal interns to support its regular legal staff.</p>
	Metric(s) and Quantitative Value	<p>Data metric 10a – Percent HPVs not meeting timeliness goals (2 FY). Value: 45.8%. There is no national goal. The national average is 39.5%.</p> <p>File Metric 10b -- % of HPVs reviewed that are addressed in a timely manner.</p> <p>Value: 33% of enforcement responses reviewed were taken in a timely manner</p>
	State Response	
	Action(s)	A protocol needs to be established for keeping the state case development officer and assigned state attorney aware of the Day 270 deadline. The protocol must be submitted to the region by December 31, 2009 and implemented in January 2010. In addition, EPA will follow-up with the state in 2010 regarding the unresolved recommendation from round 1 (discussed on page 29) in order to reach closure on this issue.

**Element 11: Penalty calculation method. Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations,**

**appropriately using the BEN model or other method that produces results consistent with national policy.**

11-1	Finding	.
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	<p>The state’s administrative and civil penalties are based on the Iowa Administrative Code (IAC) sections 455B.109 and 455B.146, respectively. IAC 455B.109 allows for the administrative assessment of penalties of not more than \$10,000 for violation of rules, permits or orders and requires the consideration of the factors of economic benefit, gravity and culpability when proposing or assessing penalties. The Consent Agreement that concludes such an administrative action includes the assessed values for each of these factors along with explanation for the level of assessment. The initial assessment and any changes to the initial assessment are documented in the files of the legal staff assigned to the Air Quality Bureau. IAC 455B.146 allows for the attorney general to institute a civil action in any district court for violation of any order, permit or rule not to exceed \$10,000 per day for each day such violation occurs and/or for injunctive relief. Rules IAC 455B.10.1-10.3 provides further detail on proposing or assessing administrative penalties allowed for by IAC 455B.109.</p>
	Metric(s) and Quantitative Value	
	State Response	<p>In October, 2005 the state Air Quality Bureau drafted an Air Quality Civil Penalty Manual. The plan was for each program area, such as the air quality program, to develop a penalty manual and for the manual to be incorporated into the state rules to be used in proposing or assessing penalties. The rules were never adopted, so the Air Quality Bureau is limited to using the guidance provided in IAC 455B.109 and IAC 455B.10.1-10.3 for proposing and assessing administrative penalties.</p>
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 12: Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.**

12-1	Finding	.
	Is this finding an (select one)	<input type="checkbox"/> Good practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations required
	Explanation (If area for state attention, describe why action not required. If area for state improvement, provide a recommended action.)	The differences between initial and final penalties as well as confirmation that the final penalty was collected are documented in the files maintained by the legal staff assigned to the Air Quality Bureau.
	Metric(s) and Quantitative Value	
	State Response	None
	Actions(s) (Include any uncompleted actions from Round 1 that address this issue.)	None

**V: ELEMENT 13 SUBMISSION.**

The Air Quality program provided no information under Element 13.

## **APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the first SRF review of Iowa’s air compliance and enforcement programs, Region 7 and Iowa identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

<b>State</b>	<b>Status</b>	<b>Due Date</b>	<b>Media</b>	<b>Element</b>	<b>Title</b>	<b>Finding</b>
IA - Round 1	Completed	01/31/08	CAA	Inspection Universe	Mul;tiple FCEs at same facility during the same year	More than one FCE conducted at the same Title V facility in any year.
IA - Round 1	In progress	01/31/08	CAA	Timely & Appropriate Actions	Timely action taken to address HPV sources	The state’s performance of 47.4% fell slightly below the national average of 48.5% for FY05
IA - Round 1	Unresolved	12/31/2008	CAA	Penalties	Percent (HPV) actions with penalties.	The state’s 44.4% performance fell below the national average of 79.5% for FY05. Much of this low performance is due to the fact that the state does not usually assess penalties for failed stack tests where the source can be re-permitted at a higher emission limit.

The Region and the state continue to try to improve on the 2<sup>nd</sup> issue (Timely action taken to address HPV sources). The Region continues to list the Day 270 date in the enforcement summary document that is used as the basis for the every-other-month EPA/State enforcement call to remind the legal staff of the HPV timeliness criterion. The state also has begun to hire legal interns to support the regular legal staff and plans to continue this practice.

The state addressed the 3<sup>rd</sup> issue (Percent HPV action with penalties) most recently in an April 7, 2009 e-mail from the Air Quality Compliance and Monitoring Section Chief that read “...I also don’t believe this is a fair assessment of our program. As you know, in Iowa we issue Notices of Violation (NOVs) for any air violation at a facility. Our policy is to address each violation in a formal manner. I receive many calls from industry wanting to know why Iowa issued NOVs when other state and local programs only issue NOVs if they are going to refer for penalty. This would seem to indicate there are many violations that don’t get entered in AFS. If Iowa only issued NOVs for cases we referred for a penalty our “SRF score” would be much better. I have also discussed this issue with other agencies. Some may not even issue a NOV for a failed stack test if the permit can be modified. Again, I don’t think EPA is getting the information from all states to do a meaningful national comparison. Iowa also issues pre-construction permits and it can difficult to know the true emission rate until tested.”

EPA will follow-up with the state on this issue in FY 2010 in order to reach resolution.

## APPENDIX B: OFFICIAL DATA PULL

**OTIS State Review Framework Results**



Metrics Information

CAA Data for Iowa (Review Period Ending: FY08)

**Please note:** For display purposes, some important explanatory details about the data metrics are not included on the metrics results screen. To see detailed information about each data metric, refer to the data metrics informational spreadsheet or data metrics plain language guide when reviewing the data - all SRF guidance is available on the [OTIS SRF documents page](#). The [data problems page](#) indicates any known data metrics issues.

Metric	Metric Type	Agency	National Goal	National Average	Iowa (Metric=x/y) <sup>0</sup>	Count (x)	Universe (y)	Not Counted (y-x)	
1. Data completeness: degree to which the minimum data requirements are complete.									
A	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			289	NA	NA	
			Combined			289	NA	NA	
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			246	NA	NA	
			Combined			246	NA	NA	
B	Source Count: Synthetic Minors (Current)	Data Quality	State			1,445	NA	NA	
			Combined			1,445	NA	NA	
	Source Count: NESHAP Minors (Current)	Data Quality	State			2	NA	NA	
			Combined			2	NA	NA	
	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			893	NA	NA	
			Combined			893	NA	NA	
C	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			402	NA	NA	
			Combined			402	NA	NA	
	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			18	NA	NA	
			Combined			18	NA	NA	
	CAA Subprogram Designations: MACT (Current)	Data Quality	State			279	NA	NA	
			Combined			279	NA	NA	
	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	73.4%	96.5%	222	230	8
	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	32.4%	100.0%	1	1	0
	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	88.9%	98.2%	162	165	3
			Combined	100%	86.2%	95.9%	162	169	7
	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State				501	NA	NA
	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State				528	NA	NA
Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State				1,512	NA	NA	
Historical Non-		State				226	NA	NA	

E	Compliance Counts (1 FY)	Data Quality	Combined				253	NA	NA	NA
F	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State				259	NA	NA	NA
	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State				207	NA	NA	NA
G	HPV: Number of New Pathways (1 FY)	Data Quality	State				16	NA	NA	NA
	HPV: Number of New Sources (1 FY)	Data Quality	State				15	NA	NA	NA
H	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	53.7%	100.0%	16	16	0	
	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	64.9%	87.5%	14	16	2	
	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	65.3%	100.0%	16	16	0	
I	Formal Action: Number Issued (1 FY)	Data Quality	State				18	NA	NA	NA
	Formal Action: Number of Sources (1 FY)	Data Quality	State				13	NA	NA	NA
J	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State				\$89,000	NA	NA	NA
K	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0			2	NA	NA	NA
2. Data accuracy, degree to which the minimum data requirements are accurate.										
A	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	58.3%	23.7%	14	59	45	
		Combined	≤ 50%	58.3%	24.6%	15	61	46		
B	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.5%	0.2%	1	470	469	
	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State				82	NA	NA	NA
3. Timeliness of data entry, degree to which the minimum data requirements are complete.										
A	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	37.7%	25.0%	4	16	12	
		Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	64.6%	64.8%	990	1,528	538
B	Percent Enforcement related MDR actions									

	reported ≤ 60 Days After Designation, Timely Entry (1 FY) <sup>2</sup>	Goal	State	100%	74.9%	88.3%	<u>196</u>	222	<u>26</u>
C	Comparison of Frozen Data Set	Available after December 2008							
5. Inspection coverage, degree to which state completed the universe of planned inspections/compliance evaluations.									
A	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	58.5%	56.1%	<u>152</u>	271	<u>119</u>
			Combined	100%	58.7%	58.7%	<u>159</u>	271	<u>112</u>
A	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	81.3%	89.1%	<u>262</u>	294	<u>32</u>
			Combined	100%	81.8%	92.5%	<u>272</u>	294	<u>22</u>
B	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) <sup>3</sup>	Review Indicator	State	20% - 100%	68.0%	71.4%	<u>402</u>	563	<u>161</u>
			Combined	20% - 100%	68.4%	72.4%	<u>409</u>	565	<u>156</u>
C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	100.0%	100.0%	<u>271</u>	271	0
			Combined		100.0%	100.0%	<u>275</u>	275	0
C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.2%	71.1%	<u>1,110</u>	1,562	<u>452</u>
			Combined		81.5%	71.3%	<u>1,114</u>	1,562	<u>448</u>
D	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.4%	36.1%	<u>1,037</u>	2,869	1,832
E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			4	NA	NA	NA
			Combined			4	NA	NA	NA
F	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA
G	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.0%	99.6%	<u>252</u>	253	<u>1</u>
7. Identification of alleged violations, degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.									
C	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY) <sup>4</sup>	Review Indicator	State	> 1/2 National Avg	21.5%	22.9%	<u>144</u>	<u>630</u>	<u>486</u>
			EPA			not prg	not prg	not prg	not prg
C	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.7%	89.3%	<u>25</u>	28	<u>3</u>
			EPA	> 1/2 National Avg	0.0%	0 / 0	0	0	0
8. Identification of SNC and HPV, degree to which the state accurately identifies significant noncompliance & high priority violations and enters information into the national system in a timely manner.									
A	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.5%	4.8%	<u>14</u>	<u>289</u>	<u>275</u>
			EPA		0.5%	0.7%	<u>2</u>	<u>289</u>	<u>287</u>
B	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.7%	0.1%	<u>1</u>	<u>1,445</u>	<u>1,444</u>
			EPA	> 1/2 National Avg	0.0%	0.0%	0	<u>1,445</u>	<u>1,445</u>
	Percent Formal	Review		> 1/2 National					



C	Actions With Prior HPV - Majors (1 FY)	Indicator	State	Avg	74.2%	55.6%	<u>5</u>	9	<u>4</u>
D	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	41.1%	77.1%	<u>54</u>	70	<u>16</u>
E	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) <sup>5</sup>	Review Indicator	State	> 1/2 National Avg	24.4%	11.9%	<u>5</u>	42	<u>37</u>
10. Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.									
A	Percent HPVs not meeting timeliness goals (2 FY) <sup>6</sup>	Review Indicator	State		39.5%	45.8%	<u>11</u>	24	<u>13</u>
12. Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.									
A	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			<u>17</u>	NA	NA	NA
B	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	≥ 80%	86.3%	100.0%	<u>6</u>	6	0

[Save Results \(a comma delimited text file\)](#)

[Save Results \(Excel file\)](#)

Report Generated on 1/14/2009  
Data Refresh Dates

**Note:** EPA Regions must archive the state official data set (first results screen) used for a state review, as these data cannot be reproduced at a later date. SRF data metrics results may change as data are updated in AFS, ICIS, PCS, and RCRAInfo. The above data set may be saved in Excel or comma delimited text format by clicking on the appropriate Save Results link above. Drilldown tables that are linked from this page also cannot be exactly reproduced after a new data refresh occurs if the state has entered or changed data. OECA does not require regions to save the drilldown facility lists in order to document their review; however, if potential problem areas are identified through regional analysis or via state dialogue, the region may want to save selected drilldown lists.

**General Notes:**

- \* Blue-shaded rows denote that the metric was pulled manually. All FY2007 manual metrics were pulled using IDEA data from August of 2008. Unless otherwise noted, FY2008 manual metrics were pulled using IDEA data from December of 2008.
- \* The results counts of some metrics contain enforcement sensitive (ES) records/actions. When using the drilldowns, [enforcement sensitive access](#) may be required to view all records/actions included in the results counts.
- \* Because of timeout issues, links are not provided to drilldowns that produce more than 1500 records.

**Caveats:**

- <sup>0</sup> State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).
- <sup>1</sup> Metric 3B1 and 3B2 data were pulled manually and are available only for FY2007 and FY2008. Metric 3B1 and 3B2 logic were updated for FY2008 to count as late reporting those actions where Dates Achieved were erroneously reported to AFS before the actual Achieved Dates. States who reported actions with Dates Scheduled were not penalized, but actions were omitted from the counts. Data for metrics 3B1 and 3B2 are available only for the following LCON searches: AZ01, AZ02, and PA02.
- <sup>2</sup> see above caveat
- <sup>3</sup> The current CMS Cycle for SM80s started with FY07; therefore, metric 5B1 includes number of FYs since FY07 through selected FY. Goal percentages expected to increase with selected FY until CMS Cycle completion in FY11, e.g., 20%- FY07,40% -FY08, etc.
- <sup>4</sup> Programming for Metric 7C1 will be complete in the Spring of 2009.
- <sup>5</sup> Metric 8E data was pulled manually and is available only for FY2007 and FY2008. Additionally, data for this metric is available only for the following LCON searches: AZ01, AZ02, and PA02.

<sup>6</sup> Metric 10A data was pulled manually and is available only for FY2007 and FY2008. Additionally, data for this metric is available only for the following LCON searches: AZ01, AZ02, and PA02.

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## APPENDIX C: PDA TRANSMITTAL LETTER



### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

FEB 02 2009

Mr. Brian Hutchins  
Chief, Air Quality Compliance and Monitoring Section  
Iowa Department of Natural Resources  
7900 Hickman Road – Suite 1  
Urbandale, IA 50322

Dear Mr. Hutchins:

On January 9, 2009, EPA Region 7 notified Catharine Fitzsimmons via an opening letter of its intention to begin the State Review Framework based evaluation of your air compliance and enforcement program. As noted, the base year for review will be federal fiscal year 2008. We have received your response to the office data metrics results sent on January 9, 2009. As the next step in the process, the region analyzed the data against set goals and commitments, and we are now providing the analysis and transmitting the list of selected files for review.

This follow-up letter includes our preliminary analysis of the state data metric results, the official data metric results spreadsheet(s) with any state-provided corrections/discrepancies, our focus areas for the upcoming on-site file review that will be conducted on February 24-26, 2009, and the list of files that have been selected for review. The information included applies to the air compliance and enforcement program only.

Please note that the enclosed preliminary findings are largely based only on the data metrics results themselves. Final findings may be significantly different based upon the results of the file review and ongoing discussions with you and your staff. If you have any questions about the process that we intend to use, please contact Mike Bronoski at 913-551-7291 or [Bronoski.Michael@epa.gov](mailto:Bronoski.Michael@epa.gov).

All information and material used in this review may be subject to federal and/or state disclosure laws. While EPA only intends to use this information for discussions with your agency, it may be necessary to release information in response to a properly submitted request.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Smith".

Mark A. Smith  
Chief  
Air Permitting and Compliance Branch

Enclosure 1 - CAA Preliminary Regional Analysis of State Review Framework Data Metrics Results  
Enclosure 2 - CAA Data Metric Preliminary Data Analysis Worksheets  
Enclosure 3 - CAA Explanation of File Selection  
Enclosure 4 - CAA Table of Selected Files

cc: Mark Hague  
Environmental Protection Agency, R7



**APPENDIX D: PDA ANALYSIS CHART**

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA (Appendix B) contains every metric positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of the report.

CAA PDA Worksheet - FY08 Official Data Metrics Results for State Iowa

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis	
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Iowa Metric	Evaluation	Initial Findings
1K-S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			2	Minor issue	Since the 12/13/08 refresh, facility 19-153-00820 has been changed in AFS to Class B which is not subject to CMS. Facility 19-153-03447 has been changed to Class SM and a CMS flag added. These changes have eliminated this Minor Issue.

8B-S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.70%	0.1%	Potential concern; supplemental file review	The Region does not believe this metric is an issue. About the only ways an SM can become a HPV is by exceeding the major source threshold or due to recalcitrance. SMs that exceed the major source threshold are rare in Iowa and only 1 was identified in FY08 accounting for the 0.1% metric. The supplemental Synthetic Minor source files selected to evaluate Metric 8D will also be used to further assess this Metric 8B.
8D-S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	41.10%	77.1%	Potential concern; supplemental file review	The supplemental Synthetic Minor source files selected to evaluate Metric 8B will be used to evaluate this Metric 8D.
8E-S	Percent Failed Stack Test Actions that received HPV listing - Majors	Review Indicator	State	> 1/2 National Avg	24.40%	11.9%	Minor issue	Iowa metric is approximately equal to > 1/2 of

	and Synthetic Minors (2 FY)						National average so is probably acceptable
10A-S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		39.50%	45.8%	Minor issue The lowa metric only slightly exceeds the National average. This is mainly due to the fact that only two attorneys are assigned to handle air cases and as a result there is usually a backlog. Given budgetary constraints, it is highly unlikely that an additional attorney can be added.

## APPENDIX E: PDA WORKSHEET

Enclosure 1. CAA PDA Worksheet - FY08 Official Data Metrics Results for State Iowa

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis			
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	Initial Findings
1A1-C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			289	NA	NA	NA	
1A2-C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			246	NA	NA	NA	
1B1-C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			1445	NA	NA	NA	
1B2-C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			2	NA	NA	NA	
1B3-C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			893	NA	NA	NA	
1C1-C	CAA Subprogram Designation: NSPS (Current)	Data Quality	Combined			402	NA	NA	NA	
1C2-C	CAA Subprogram Designation: NESHAP (Current)	Data Quality	Combined			18	NA	NA	NA	
1C3-C	CAA Subprogram Designation: MACT (Current)	Data Quality	Combined			279	NA	NA	NA	
1C4-S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	73.40%	96.5%	222	230	8	
1C5-S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	32.4	100%	1	1	0	
1C6-S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	88.90%	98.2%	162	165	3	
1D1-S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			501	NA	NA	NA	
1D2-S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			528	NA	NA	NA	
1D3-S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			1,512	NA	NA	NA	
1E-S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			226	NA	NA	NA	
1F1-S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			259	NA	NA	NA	
1F2-S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			207	NA	NA	NA	
1G1-S	HPV: Number of New Pathways (1 FY)	Data Quality	State			16	NA	NA	NA	
1G2-S	HPV: Number of New Sources (1 FY)	Data Quality	State			15	NA	NA	NA	
1H1-S	HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/01/2005 with discovery	Data Quality	State	100%	53.7	100.0%	16	16	0	
1H2-S	HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/01/2005	Data Quality	State	100%	64.9	87.5	14	16	2	

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis			
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	Initial Findings
1H3-S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs reported after 10/01/2005 with HPV Violation Type Code(s)	Data Quality	State	100%	65.3	100.0%	16	16	0	
111-S	Formal Action: Number Issued (1 FY)	Data Quality	State			18	NA	NA	NA	
112-S	Formal Action: Number of Sources (1 FY)	Data Quality	State			13	NA	NA	NA	
1J-S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$89,000	NA	NA	NA	
1K-S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			2	NA	NA	NA	Since the 12/13/08 refresh, facility 19-153-00820 has been changed in AFS to Class B which is not subject to CMS. Facility 19-153-03447 has been changed to Class SM and a CMS flag added. These changes have eliminated this Minor Issue.
2A-S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	less than 50%	58.30%	24%	14	59	45	
2B1-S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.50%	0.2%	1	470	469	
2B2-S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			82	NA	NA	NA	
3A-S	Percent HPVs Entered less than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	37.70%	25.0%	4	16	12	
3B1-S	Percent Compliance Monitoring related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	64.60%	64.8%	990	1,528	538	
3B2-S	Percent Enforcement related MDR actions reported more than 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	74.90%	88.3%	196	222	26	
5A1-S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	58.5%	56.1%	152	271	119	
5A2-S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	81.3%	89.1%	262	294	32	
5B1-S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20-100%	68.00%	71.4%	402	563	161	
5B2-S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	100%	100.0%	271	271	0	
5C-S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.20%	71.1%	1,110	1,562	452	
5D-S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.40%	36.1%	1,037	2,869	1,832	
5E-S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			0	NA	NA	NA	
5F-S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA	



Original Data Pulled from Online Tracking Information System (OTIS)										EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	Initial Findings
5G-S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.00%	99.60%	252	253	1	
7C1-S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.50%	22.9%	144	630	486	
7C2-S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.70%	89.3%	25	28	3	
8A-S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.50%	4.8%	14	289	279	
8B-S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.70%	0.1%	1	1,445	1,444	The Region does not believe this metric is an issue . About the only ways an SM can become a HPV is by exceeding the major source threshold or due to recalcitrance. SMs that exceed the major source threshold are rare in Iowa and only 1 was identified in FY08 accounting for the 0.1% metric. The supplemental files selected to evaluate 8D will also be used to further assess this metric 8B.
8C-S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.20%	55.6%	5	9	4	
8D-S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	41.10%	77.1%	54	70	16	See 8B
8E-S	Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	24.40%	11.9%	5	42	37	Iowa metric is approximately equal to > 1/2 of National Avg so is probably acceptable
10A-S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		39.50%	45.8%	11	24	13	The Iowa metric only slightly exceeds the National average. This is mainly due to the fact that only two attorneys are assigned to handle air cases and as a result there is usually a backlog. Given budgetary constraints, it is highly unlikely that an additional attorney can be added.
12A-S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			17	NA	NA	NA	
12B-S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>80%	86.30%	100.0%	0	6	0	

## **APPENDIX F:FILE SELECTION**

Files to be reviewed are selected according to a standard protocol and using a web-based file selection tool (available to EPA and state users here: [http://www.epa-otis.gov/cgi-bin/test/srf/srf\\_fileselection.cgi](http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi) ). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A, states should be able to recreate the results in the table in section B.

### **A File Selection Process**

The Region used the OTIS File Selection Tool to select the files for the on-site file review. The Selection Tool recommended that 20-35 files be reviewed for Iowa based on the number of facilities in the universe of 300-700 facilities. Of the 30 files selected, 15 files were selected randomly from Major sources at least half of which had compliance monitoring activity and the other half had at least some type of enforcement activity. The selection included 3 High Priority Violators. The remaining 15 files selected were supplemental file selections of SM80 and SM facilities to address Data Metric 8B-High Priority Violation Discovery Rate Per Major Source and Data Metric 8D-Percent Informal Enforcement Actions Without Prior HPV Majors. Due to time constraints, only 14 files for Major sources and 13 files for SM80/SM sources were able to be reviewed for a total of 27 files reviewed. Even with this unexpected result, however, the 27 files met the 20-35 file review requirement and the file reviewers concluded that a good representative sample of files was reviewed.

### **B. File Selection Table**

9	1901900058	FAIRBANK	IA	50629	0	0	4	1	0	0	1	0	0	SM80	Accepted supplemental
10	1908300124	IOWA FALLS	IA	50126	1	1	2	0	0	0	3	0	0	SM80	Accepted supplemental
11	1903300060	MASON CITY	IA	50402	1	8	3	2	1	1	1	0	0	MAJR	Accepted representative
12	1905900111	MILFORD	IA	51351	0	0	0	0	0	0	1	0	0	SM	Accepted supplemental
13	1916900131	AMES	IA	50011	1	5	0	0	0	0	0	0	0	MAJR	Accepted representative
14	1915700108	GRINNELL	IA	50112	1	0	2	0	0	0	1	0	0	SM80	Accepted supplemental
15	1909500055	WILLIAMSBURG	IA	52361	0	1	0	0	0	0	1	0	0	SM80	Accepted supplemental
16	1903500086	MARCUS	IA	51035	0	1	0	4	00	0	0	0	0	MAJR	Accepted representative
17	1906100160	DUBUQUE	IA	52003	1	4	0	0	0	0	0	0	0	MAJR	Accepted representative
18	1905900080	MILFORD	IA	51351	1	4	0	0	0	0	0	0	0	MAJR	Accepted representative
19	1909900128	NEWTON	IA	50208	0	2	0	0	0	0	1	0	0	SM	Accepted supplemental
20	1901300240	WATERLOO	IA	50703	1	5	0	0	0	0	0	0	0	MAJR	Accepted representative
21	1912500093	KNOXVILLE	IA	50138	1	6	0	0	0	0	0	0	0	MAJR	Accepted representative
22	1906700086	CHARLES CITY	IA	50616	1	6	0	0	0	0	0	0	0	MAJR	Accepted representative
23	1901300070	WATERLOO	IA	50701	1	7	0	0	0	0	0	0	0	MAJR	Accepted representative
24	1914300028	ASHTON	IA	51232	1	0	0	0	0	0	1	0	0	SM80	Accepted supplemental
25	1909300029	GALVA	IA	51020	1	2	1	0	0	0	2	0	0	SM80	Accepted supplemental
26	1916900090	STORY CITY	IA	50248	0	0	4	0	0	0	1	0	0	SM80	Accepted supplemental
27	1909900151	NEWTON	IA	50208	0	0	0	0	0	0	1	0	0	SM80	Accepted supplemental
28	1901300130	CEDAR FALLS	IA	50614	1	7	10	1	0	0	1	0	0	MAJR	Accepted representative
29	1914700064	EMMETSBURG	IA	50536	1	1	4	2	0	0	1	0	0	MAJR	Accepted representative
30	1905500054	MANCHESTER	IA	52057	1	3	0	0	0	0	1	0	0	SM80	Accepted supplemental

ID	City	State	Zip	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Selecti	
1	1909900145	Newton	IA	50208	1	1	2	0	0	0	1	0	0	SM80	Accepted supplemental
2	1918700015	Fort Dodge	IA	505401	1	6	2	0	1	1	1	0	0	MAJR	Accepted representative
3	1912300005	OSKALOOSA	IA	52577	1	1	9	0	0	0	3	0	0	MAJR	Accepted representative
4	1916700084	BOYDEN	IA	51234	1	0	0	0	0	0	1	0	0	SM80	Accepted supplemental
5	1919700065	BELMOND	IA	50421	1	1	1	0	0	0	1	0	0	SM80	Accepted supplemental
6	1911100140	FORT MADISON	IA	52627	1	3	3	0	1	1	1	2500	0	MAJR	Accepted representative
7	1913900030	MUSCATINE	IA	52761	1	4	0	0	1	0	0	0	0	MAJR	Accepted representative
8	1910100046	FAIRFIELD	IA	52556	0	0	1	0	0	0	1	0	0	SM	Accepted supplemental

## **APPENDIX G:FILE REVIEW ANALYSIS**

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Analysis Chart in this report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section VI of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Name of State:	Review Period:		
CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
<b>Metric 7b</b>	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	62.5%	15 of 24 files with non-HPV level violations showed a compliance status in AFS that accurately reflected the timing of the non-HPV violation. The compliance status for two of the facilities were 1 quarter behind i.e. NOV was issued in 3 <sup>rd</sup> quarter and compliance status did not show this violation until the 4 <sup>th</sup> quarter.
<b>Metric 10b</b>	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	33%	1 of 3 HPV reviewed in the file will likely be resolved in a timely matter i.e. there is still time to address. The remaining 2 HPVs had already exceeded Day 270 without being addressed.

**APPENDIX G: CORRESPONDENCE**



CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

## STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES  
RICHARD A. LEOPOLD, DIRECTOR

January 26, 2009

Becky Weber  
Air and Waste Management Division  
United States Environmental Protection Agency  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

RE: Official Data Set for State Review Framework (SRF)

Dear Ms. Weber:

The Iowa Department of Natural Resources (IDNR) received your letter dated January 26, 2009, initiating the review of the IDNR Clean Air Act Stationary Source Enforcement Program. The letter transmitted the Official Data Set (ODS) that will be used in the review. The IDNR conducted an initial review of the ODS and agrees the data set is appropriate for the SRF.

The IDNR looks forward to working with Mike Bronoski, Angela Catalano, and Larry Hacker of your office during the upcoming review.

Please let us know if there is anything your staff may need to ensure the review runs smoothly. If you have any questions or specific requests for the review, please contact Brian Hutchins of my staff at 515-281-8448.

Sincerely,

A handwritten signature in cursive script that reads "Catharine Fitzsimmons".

Catharine Fitzsimmons  
Bureau Chief  
Air Quality Bureau  
Iowa Department of Natural Resources

7900 Hickman Road, Suite 1 / Urbandale, Iowa 50322  
515-242-5100 FAX 515-242-5094 <http://www.iowacleanair.com/>

### **State Comments on Draft Report**

Brian Hutchins, Chief, Air Compliance & Monitoring Section, advised Mike Bronoski in-person on July 14, 2009, that the state had no comments on the Draft SRF report. This Draft SRF report was the same report listed on the Tracker for OC's review and comment on July 22, 2009.

**Final Report**

**State Review Framework**

**Review of Region 7**

**Direct Implementation**

**Iowa**

**RCRA Subtitle C Program**

**For FY 2008**

**September 30, 2009**



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## **1. Executive Summary**

This is a State Review Framework review of the Region 7 direct implementation of the RCRA Subtitle C program in Iowa for fiscal year 2008.

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation, compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and, penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

### **A. Major State Priorities and Accomplishments**

#### **Priorities**

National Priorities:

Region 7 participated in the financial assurance national priority in FY2008, targeting and ensuring compliance with financial assurance requirements for closure, post-closure and corrective action activities.

#### **Regional Priorities**

Region 7 designated regional priorities in the foundry sector with sampling inspections. The region also continued its efforts in enforcement and clean-up in the woodtreater sector.

Inspections in the warehouse sector were continued in FY2008 and several enforcement actions were taken as a result.

Region 7 routinely conducts compliance assistance visits at new RCRA notifiers in Iowa. Iowa does not have an authorized RCRA program; consequently, Region 7 places great emphasis on ensuring that newly subject Iowa facilities are aware of and are in compliance with applicable RCRA requirements from the very beginning.

### **Accomplishments**

During FY2008, the RCRA Enforcement and State Program Branch implemented a program to encourage Iowa high schools to assess the chemicals currently in storage throughout the schools, promote good storage practices, alternatives for hazardous chemicals, and disposal for hazardous and out-of-date chemicals. The program is initiated at each school with an on-site compliance assistance visit conducted by Region 7's contractor, and most areas of the school are catalogued, or inventoried, for hazardous chemicals and helpful information offered for disposal and safe storage.

## **B. Summary of Results**

### **Status of Recommendations from Round 1**

Region 7 implemented six of the seven RCRA recommendations from the previous SRF report. The issue that was identified in the SRF Tracker as "working" was ensuring that CESQGs are properly documented in the files. During the on-site review for Round 2, the review team found evidence that Region 7 inspection files contain documentation of CESQGs. Therefore, this recommendation can now be closed out and considered to be completed.

### **Summary of Round 2 Results**

The Region meets program requirements in the findings for three of the 12 elements. They are Elements 2 (data completeness), 9 (return to compliance), 11 (documentation of gravity and economic benefit) and 12 (penalty collection).

The report identifies issues for regional attention for eight of the 12 elements. They are Elements 1 (data accuracy), 4 (meeting inspection commitments), 5 (meeting inspection

coverage requirements), 6 (completeness of inspection reports), 7 (prompt reporting of data the national database), and 8 (SNC identification), and 10 (timely and appropriate enforcement response).

There are no Areas for Regional Improvement as a result of this review.

### **Significant Issues Identified in the RCRA Subtitle C Program**

There are no significant issues from this review.

## **II. Background Information on State program and Review Process**

### **A. GENERAL PROGRAM OVERVIEW**

#### **Agency Structure**

The Office of Enforcement and Compliance Assurance (OECA) is responsible for monitoring compliance with environmental statutes administered by EPA and takes enforcement actions when investigations document non-compliance. The OECA at Headquarters is the National Program Manager for compliance and enforcement policies implemented by the ten EPA regional offices. Region 7, located in Kansas City, Kansas, has program oversight for EPA delegated programs in Nebraska, Iowa, Kansas, and Missouri in addition to nine tribal nations, and the direct implementation of the Resource Conservation and Recovery Act (RCRA) in Iowa.

This report will review Region 7's direct implementation of the RCRA program in Iowa for the target year FY2008.

#### **Compliance/Enforcement Program Structure in Region 7**

In Region 7, the RCRA enforcement program is located in the Air and Waste Management Division (AWMD) which is divided into seven media-based branches. The RCRA compliance monitoring and enforcement activities are managed by the RCRA Enforcement & State Programs (RESP) Branch. On-site compliance evaluation inspections are conducted by staff in the Field Compliance Branch (EFCB) of the Environmental Services Division. On-site inspections are also conducted by three different contractors using grant monies for direct program implementation. The Chemical Management Branch (CMBR) within the Office of Regional Counsel provides legal counsel and attorney assignments.

#### **RCRA Program Roles and Responsibilities**

The RESP Branch implements and oversees RCRA enforcement program activities in the Region 7 states: Missouri, Nebraska, and Kansas. It has direct implementation responsibilities for the compliance and enforcement programs for RCRA Subtitle C, in Iowa. For purposes of direct implementation of the Iowa RCRA program, the RESP

Branch's central role is to target compliance inspections and address non-compliance, ensure compliance with new regulations as they become effective, and address questions from regulated entities, issuing EPA RCRA Identification numbers to large and small quantity hazardous waste generators in Iowa, implementing the biennial hazardous waste report in Iowa, input compliance and enforcement data into RCRAInfo and maintain inspection and enforcement files.

The RESP Branch also undertakes the following programs activities: hazardous waste authorization in the three authorized states, the compliance and enforcement grants programs and compliance and technical assistance, and Freedom of Information Act (FOIA) requests.

On the program side, the RCRA Corrective Action & Permits (RCAP) Branch is responsible for issues regarding RCRA facility permits and corrective action activities which include Iowa Permitting, Corrective Action, Permits/Orders, and RCRA Permits.

**Other Programs' Support Roles and Responsibilities**

The Resource Conservation and Recovery Act Information System (RCRAInfo) is supported by the RCRAInfo Data Base Manager, within the RESP Branch. The Biennial Reporting System database is supported by the BRS Data Base Manager, who is also within the RESP Branch.

**Local Agencies included/excluded from review**

Iowa has no local agencies who are involved in implementing the RCRA program.

**Resources**

<b>Positions in RCRA Subtitle C Program</b>	number of FTE's
Enforcement	8
Inspections	Approximately 1.5
State Programs	3

Legal Counsel	Approximately 6
Contractors (data entry)	1.5
SEE Grantees	2.5

The RCRA program FTEs listed above are for all four Region 6 states since the region does not break out and dedicate resources to any one state. The SEE grantees are specifically assigned to Iowa. 1.5 SEE FTE is dedicated to conducting inspections in Iowa, and 1 SEE FTE is dedicated to compliance activities in Iowa. Region 7 uses the RCRA state program grants that would otherwise go to Iowa to fund contractors to supplement regional resources for conducting inspections in Iowa.

### **Staffing/Training**

At the time of this evaluation, the RCRA State Authorization Coordinator position was vacant, as well as two SEE Grantee positions (one in compliance and one in financial analysis). The remainder of the Branch was staffed. Two compliance officer staff has less than two years experience in RCRA enforcement at the time of the program evaluation.

### **Data Reporting Systems/Architecture**

Region 7 reports annual commitments and accomplishments in the Annual Commitments System, the EPA accountability system.

Region 7 codes all RCRA compliance and enforcement activities in RCRAInfo, which is the Agency database of record for capturing RCRA facility information, compliance, enforcement, corrective action, and permit activities.

## **B. MAJOR PROGRAM PRIORITIES AND ACCOMPLISHMENTS**

### **Priorities**

National Priorities:

Region 7 participated in the financial assurance national priority in FY2008, targeting and ensuring compliance with financial assurance requirements for closure, post-closure and corrective action activities.

### **Regional Priorities**

Region 7 designated regional priorities in the foundry sector with sampling inspections. The region also continued its efforts in enforcement and clean-up in the woodtreater sector.

Inspections in the warehouse sector were continued in FY2008 and several enforcement actions were taken as a result.

Region 7 routinely conducts compliance assistance visits at new RCRA notifiers in Iowa. Iowa does not have an authorized RCRA program; consequently, Region 7 places great emphasis on ensuring that newly subject Iowa facilities are aware of and are in compliance with applicable RCRA requirements from the very beginning.

### **Accomplishments**

During FY2008, RESP implemented a program to encourage Iowa high schools to assess the chemicals currently in storage throughout the schools, promote good storage practices, alternatives for hazardous chemicals, and disposal for hazardous and out-of-date chemicals. The program is initiated at each school with an on-site compliance assistance visit conducted by Region 7's contractor, and most areas of the school are catalogued, or inventoried, for hazardous chemicals and helpful information offered for disposal and safe storage.

### **Best Practices**

During FY2008, the RESP Branch continued the practice of holding annual enforcement roundtable meetings with the authorized states as a means of exchanging enforcement information, ideas, approaches, and briefings on new regulations. New inspection targets and sectors, and compliance assistance activities are also discussed and presented.

### **Element 13:**

During FY2008, a number of RESP staff participated in activities to address the flood situation in Iowa. These activities ranged from off-site coordination with State and CERCLA personnel for



disposal of abandoned hazardous waste, to assisting in the set-up of temporary staging areas at facilities where emergency permits had been established for this purpose.

RESP staff participated in national workgroups in the development of the Academic Labs Rule and the Definition of Solid Waste Rule. Presentations on these new rules were provided to state counterparts during the aforementioned enforcement roundtable meetings, and to the regulated community at meetings and seminars as requested throughout the year.

## C. PROCESS FOR SRF REVIEW

**Review Period:** FY 2008

### **Key Dates and Communications with Region**

Initial state notification: The Kick-Off Letter was sent to the Region on September 19, 2008.

Data: The data for the PDA was generated on January 21, 2009.

On-Site Review: The On-Site Review was conducted in the Region 7 offices in Kansas City, Kansas on May 26 – 27, 2009

Exit Meeting: The OECA review team conducted the exit meeting for the On-Site Review with Region 7 management on May 29, 2009 in Kansas City, Kansas.

### **OECA and Regional Lead Contacts for Review**

#### **EPA Evaluators**

Arthur Horowitz	Program Analyst, NPMAS, OC, OECAC	202-564-2612
Chad Carbone	Program Analyst, NPMAS, OC, OECAC	202-564-0000
John Mason	Environmental Protection Specialist, CASPD	202-564-7037

#### **Regional Contacts:**

Mark Hague	Director, Enforcement Coordination Office	913-551-7546
Althea Moses	Enforcement Coordination Office	913-551-7649
Pam Johnson	Enforcement Coordination Office	993-551-7480
Don Toensing	Chief, RCRA Enforcement & State Programs Branch	913-551-7446
Beth Koesterer	RCRA Enforcement & State Programs Branch	913-551-7673



# I. Findings

Finding	Description
<b>Good Practices</b>	Initial Finding: Potentially Exemplary Performance Indicated. To include as Finding, determine: This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance.
<b>Meets SRF Program Requirements</b>	Initial Finding: Appears Acceptable. To include as Finding, determine: This indicates that no issues were identified under this Element.
<b>Areas for State* Attention</b>	Initial Finding: Minor Issue. To include as Finding, determine: This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a
<b>Areas for State * Improvement –</b>	Initial Finding: Inconclusive or Potential Concern. To include as Finding, determine: This describes activities, processes, or policies that the metrics and/or
<b>Recommendations Required</b>	the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be

[RCRA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element + Finding Number	Finding 1.1	Region 7 RCRA compliance data for Iowa is not complete for TSDFs.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	The Region 7 RCRA data for the universe of TSDFs is not complete. OTIS data show there are 12 TSDs and Region 7 states that there are only seven. In comments on the PDA, Region 7 states that the flood situation in Iowa in FY 2008 resulted in the issuance of five emergency permits for staging of waste pending off-site disposal. These five emergency permits were issued in July and August 2008, and were only used for a short time. Region 7 states that they will work with their permitting staff to update RCRAInfo to show that these are no longer operating TSDFs. A review of the OTIS data in July 2009 shows that there continues to be 12 TSDFs listed in RCRAInfo.
	Metric(s) and Quantitative Value	Data Metric 1A1 – Number of operating TSDFs in RCRAInfo. (12 corrected to 7)
	Action(s)	Area for State Attention:

		Region 7 needs to remove the temporary TSDFs from RCRAInfo if they are no longer part of the count of TSDF facilities. The main reason for doing this is to be able to accurately calculate the data metrics for completed inspections. Region 7 should resolve this as soon as possible.
	Region's Response	

<b>[RCRA] Element 2 – Data Accuracy</b>		
<b>Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).</b>		
Element + Finding Number	Finding 2.1	Region 7 RCRA compliance program data for Iowa was accurate except for a pattern of missing SNC data.
Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)	
Explanation of the Finding	100% (24 of 24) the files reviewed were accurately reflected in the national data system. Initially, the review team had identified four files where it was thought that there were data errors in OTIS, in particular missing SNC end dates and return to compliance dates. After reviewing the OTIS Detailed Facility Reports and the region's reporting records for those facilities with Region 7 compliance staff, it was determined that the data was entered into the database and is represented in OTIS.	
Metric(s) and Quantitative Value	File Review Metric 2c – Percentage of files reviewed where mandatory data are accurately reflected in the national data system. (100%)	
Action(s)	Meets SRF Program Requirements :  No further action required.	
Region's Response		

<b>[RCRA] Element 3 - Timeliness of Data Entry</b>		
<b>Degree to which the Minimum Data Requirements are timely.</b>		
Element + Finding Number	Finding	This element was not reviewed because the frozen data was not available at the time of the review.

<b>[RCRA] Element 4 - Completion of Commitments.</b>		
<b>Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.</b>		
Element + Finding Number	Finding	Region 7 RCRA program for Iowa did not meet their commitments for LQG inspections in FY 2007.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	Region 7's FY 2008 Annual Commitment System (ACS) inspection commitments were for 4 TSDs and 27 LQGs. The OTIS data show that 5 TSDF inspections were conducted, which exceeds the commitment. (125%). 25 LQGs inspections were conducted against a commitment of 26, which nearly meets the commitment (96%).
	Metric(s) and Quantitative Value	File Review Metric – Planned inspections completed. (TSDFs = 5, LQGs = 25)
	Action(s)	Area for Regional Attention:  Since the LQG commitment was not met, this is an area for regional attention.
	Region's Response	

<b>[RCRA] Element 5 – Inspection Coverage</b>		
<b>Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).</b>		
Element + Finding Number	Finding	Region 7 RCRA program for Iowa did not meet the one-year goal for TSDF inspections, or one-year and five-year goal for LQG inspections.

	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
		<p>Region 7 RCRA compliance program meets the TSDf two-year national inspection goal, but does not meet the national one-year inspection goal of 20% of LQGs for FY 2008. Region 7 covered 89.5% of the LQG universe over five-years, which is above the national average, but does not meet the national goal of 100% coverage over five-years. Region 7 also inspected 124 SQGs over five years and 170 CESQGs over five years.</p> <p>If the five emergency permits are removed from the universe, five of the remaining seven facilities were inspected within the two year timeframe. Three of these are federal facility operating TSDfS which are inspected annually. Two operating TSDfS were not inspected at the required interval.</p>
	Metric(s) and Quantitative Value	<p>Data Metric 5a – Inspection coverage for operating TSDfS (2 FYs) (5)</p> <p>Data Metric 5b – Inspection coverage for LQGs (1 FY). (25 or 18.8%)</p> <p>Data Metric 5c1 – Inspection coverage for LQGs (5 FYs) (119 or 89.5%)</p> <p>Data Metric 5c2 – Inspection coverage for active SQGs (5 FYs) (124 or 11.6%)</p> <p>Data Metric 5e1 – Inspections at active CESQGs (5 FYs) (170)</p>
	Action(s)	<p>Area for Regional Attention:</p> <p>Region 7 should ensure that the requisite number of TSDs and LQGs are inspected when preparing annual inspection targets.</p>
	Region's Response	

<b>[RCRA] Element 6 – Quality of Inspection or Compliance Evaluation Reports</b>		
<b>Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.</b>		
Element + Finding Number	Finding 6.1	Region 7 RCRA program inspection reports for Iowa, for FY 2008, were complete.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)

Explanation of the Finding	<p>100% (21 of 21) of the inspection reports reviewed were complete and contained sufficient documentation to determine compliance. The majority of inspections were conducted by contractors paid for with state grant funds that the region holds back for this purpose. The contractor reports, from three different contractors, consistently contained all of the elements of a complete inspection report, including: facility description, narrative, checklists, potential problems, etc. Region 7 explained to the review team that they work closely with the contractors to ensure the high quality of their RCRA inspection reports. Four of the CEI inspection reports reviewed were not contractor inspections: two inspection reports were prepared by EPA inspectors and two were prepared by SEE employees. One other SEE report was a Focused Compliance Inspection (FCI). The EPA and SEE inspection reports contained enough information for the region to make a compliance determination. However, these four CEI inspection reports were not complete in that they did not provide sufficient facility descriptions or inspection checklists. Not providing a checklist as part of the inspection report would be considered an exception to the rule for the Region 7 RCRA program.</p>
Metric(s) and Quantitative Value	File Review Metric 6b – Percentage of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility. (100%)
Action(s)	<p>Area for Regional Attention:</p> <p>While the EPA and SEE inspection reports are good, Region 7 should ensure that their inspection reports meet the regional standard.</p>
Region's Response	
Finding 6.2	Region 7 RCRA inspection reports for Iowa are not completed in a timely manner.
Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
Explanation of the Finding	<p>29% (5 of 21) of the inspection reports reviewed were completed in a timely manner.</p> <p>Inspections are completed by EPA employees, SEE grantees, and contractor personnel, as explained above. The EPA inspection report that was reviewed for this program review was completed in 12 days. The average number of days to complete an inspection report is 59 days. The median number of days is 46.</p>



		<p>of 58 days. This timeframe includes the preparation of a draft inspection report for review by the designated EPA work assignment manager, EPA review of the draft, contractor revision of the draft, submittal of the final report, and occasional second revision if necessary. The final report is then sent to the Regional Office for copying and distribution. This entire process encompasses approximately two months, including the time to mail the hard copy with the original attachments as collected from the facility during the inspection. Therefore, the average time to complete the contractor inspections meets the targeted timeframes. However, 5 of the 15 contractor inspection reports required more than 60 days to produce a final inspection report.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>File Review Metric 6c – Inspections reports completed within a determined time frame. (29%)</p>
	<p>Action(s)</p>	<p>Area for Regional Attention</p> <p>Region 7 RCRA program has a good SOP for managing inspections and inspection reports. Timeliness is not a major problem for Region 7, but the region needs to use the SOP as a tool to ensure the timeliness of the region’s inspection reports.</p>
	<p>Region’s Response</p>	

[RCRA] Element 7 - Identification of Alleged Violations.		
Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).		
Element + Finding Number	Finding 7.1	Region 7 RCRA program for Iowa makes accurate compliance determinations and promptly reports them to the national database, but it is not clear that the decision making process is well documented.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	<p>100% (22 of 22) of the files reviewed contained documentation of compliance determinations that were made by the region. 94% (16 of 17) of the violations reviewed were reported to the national data system within 150 days. The Round 1 review made a recommendation for the region to improve its timeliness in making compliance determinations. The results of these metrics indicate that this recommendation has been implemented.</p> <p>Most of the violations that are detected are SV and not SNC. They are mainly violations for universal waste, used oil, or not documenting credentials/qualifications of managers and staff. These compliance determinations appear to be correct.</p> <p>The majority of RCRA inspections in Iowa are conducted by contractors. The contract inspectors prepare and issue to each facility a Notice of Preliminary Findings (NOPF) upon the conclusion of the inspection. These provide a detailed list of potential violations to the facility. From the conversations with the Regional compliance officers, the review team learned that the NOPFs function as a preliminary notice to the facility of the earliest findings of the contractor. The facilities use the information from</p>

the NOPFs to begin to correct the problems and return to compliance. During this time, the draft inspection report and NOPF are under review by the EPA work assignment manager, and any questions that might arise on the part of the contractor are addressed by the work assignment manager. The facility is also given a compliance officer name and phone number to contact if

the facility has questions regarding return to compliance efforts while the inspection report is being prepared and violations are being determined. While Region 7 does a good job of discovering alleged violations, it was not clear from reviewing the files

		determination of compliance. The Region 7 RCRA compliance manager is engaged in developing that guidance and will implement it when it becomes OECA policy.
	Metric(s) and Quantitative Value	File Review Metric 7a – Percentage of accurate compliance determinations based on inspection reports. (100%) File Review Metric 7b – of violation determinations in the files reviewed that are reported timely to the national database (within 150 days). (94%)
	Action(s)	Meets SRF Program Requirements :  No further action required.
	Region's Response	

<b>[RCRA] Element 8 - Identification of SNC and HPV</b>		
<b>Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.</b>		
Element + Finding Number	Finding 8.1	Based on the data and file review metrics, the Region 7 RCRA program in Iowa accurately identifies significant noncompliance and reports it to the national database in a timely manner. However, it is not clear that there are sufficient management controls governing the compliance determination process.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	<p>95% (19 of 20) facilities reviewed as part of the files review received accurate compliance determinations including the 5 that were determined to be in SNC. This is consistent with the findings of data metrics 8b that indicate that SNC determinations are reported to the national database in a timely manner.</p> <p>The alleged violations at the facilities often are resolved before a subsequent warning letter is prepared by Region 7, as most facilities provide a response to the Notice of Preliminary Findings describing their efforts to return to compliance. Region 7 usually follows-up on the Notice of Preliminary Finding and a warning letter to the facility noting the problems that have been corrected and advising the facility to fix the other problems. Those warning letters occasionally tell the facility that there is no need to let EPA know that minor problems have been fixed.–Region 7 explained to the review team that this practice is used for minor problems that do not require the use of additional regional resources. Nonetheless, OECA believes there should be further follow-up indicating the facility corrected all of the problems identified through the inspection..</p>
	Metric(s) and Quantitative Value	Data Metric 8a – Percent of formal actions taken that received a prior SNC listing (1 FY). (2.3%) Data Metric 8b – Percent of SNC determinations made within 150 days (1 FY). (100%) Data Metric 8c – Percent of formal actions taken that received a prior SNC listing (1 FY). (100%) File Review Metric 8h – Percentage of violations in files reviewed that was accurately determined to be SNC. (95%)
	Action(s)	Area for Regional Attention :  OECA strongly encourages Region 7 to ensure that facilities confirm that all violations identified by the region are corrected.
	Region's Response	

<b>[RCRA] Element 9 - Enforcement Actions Promote Return to Compliance</b>		
<b>Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.</b>		
Element + Finding Number	Finding 9.1	Region 7 documents return to compliance for SNC in the RCRA files for Iowa.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	83% (5 of 6) of the enforcement responses reviewed that were in SNC contain documentation that the facility has or will return to compliance. All of these were addressed with informal enforcement, i.e., warning letters or NOVs. In each of the files for the facilities with an enforcement response, there was a letter and documentation from the facility to demonstrate the return to compliance. The one file without documentation was for a multi-state and multi-regional civil action (Equistar) that was managed by DOJ. There was no copy of the order in the file. The regional compliance officer who helped with this response told the reviewers that the order included injunctive relief for the violations at this facility.
	Metric(s) and Quantitative Value	File Review Metric 9b – Percentage of enforcement responses that have returned or will return a source in SNC to compliance. (83%)
	Action(s)	Meets SRF Program Requirements :  No further action required.
	Region's Response	
	Finding 9.2	Region 7 documents return to compliance for secondary violations in the RCRA files for Iowa.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	86% (6 of 7) of the enforcement responses reviewed that were SVs contain documentation that the facilities have or will return to compliance. All of these facilities were addressed with an informal enforcement response, i.e., warning letter or NOV. Six files contained letters from the facilities indicating that the facility was now complying with their requirements to maintain documentation of return to compliance.

Metric(s) and Quantitative Value	File Review Metric 9c – Percentage of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance. (86%)
Action(s)	Meets SRF Program Requirements :  No further action required.
Region's Response	

<b>[RCRA] Element 10 – Timely and Appropriate Action</b>	
<b>Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.</b>	
Element + Finding Number	Finding 10.1  Region 7 RCRA enforcement actions in Iowa are generally taken in a timely manner, but a few actions took too long to address.
Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
Explanation of the Finding	83% (15 of 18) of the violations reviewed were addressed in a timely manner, i.e., within 150 days. The 3 violations that were late were addressed in 240, 360, and 570 days. One formal action was an AO on consent. One was an AO with no penalty assessed. Another one was a SNC that was addressed with an informal enforcement response that took time for the region to negotiate with the facility.
Metric(s) and Quantitative Value	File Review Metric 10c – Percentage of enforcement responses reviewed that are taken in a timely manner. (83%)
Action(s)	Area for Regional Attention:  Although these three untimely actions are exceptions, this is an area that the region needs to pay attention to and ensure that no enforcement response takes more than 240 days to address.
Region's Response	
Finding 10.2	Region 7 RCRA program for Iowa does not routinely address instances of SNC with formal enforcement responses.

Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
Explanation of the Finding	<p>None of the three SNCs was addressed with a formal enforcement response. These facilities did receive informal enforcement actions. The RCRA ERP states that SNC should be addressed with formal action. Region 7 RCRA program explained that the early indication was that these violations rose to the level of SNC and they were identified as such in RCRAInfo, and the region anticipated issuing formal enforcement orders. However, as these cases developed, it was determined by the Region that informal enforcement was appropriate for each case.</p> <p>According to the RCRA Enforcement Response Policy, SNC violations should be addressed with a formal enforcement action within 360 days of the violation. It is the Region 7's decision to address an SNC violation with an informal rather than a formal action depending on the circumstances. But they need to ensure that to the extent possible, instances of SNC are addressed with formal enforcement.</p>
Metric(s) and Quantitative Value	<p>Data Metric 10a – Percent of SNCs with formal action/referral taken within 360 days (1 FY) (0%)</p> <p>File Review Metric 10d – Percentage % of enforcement responses reviewed that are taken in a timely manner. (94%)</p>
Action(s)	<p>Area for Regional Attention:</p> <p>Region 7 RCRA compliance program needs to ensure that they are adhering to the ERP as closely as possible and that they are to the extent possible addressing SNC with formal enforcement actions. The region should provide adequate documentation in the case files to explain SNC decisions.</p>
Region's Response	<p>The region believes its decisions to pursue informal, rather than formal enforcement action, was appropriate given the development of facts in each case. The region supports this being an area for regional attention and will provide documentation in case files to support formal/informal enforcement decisions.</p>

<b>Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.</b>		
Element + Finding Number	Finding	Region 7 RCRA compliance program documents the appropriate calculation of the gravity and economic benefit components of a penalty.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)
	Explanation of the Finding	<p>The review team reviewed three formal enforcement responses. However, only one of those enforcements was a regional penalty order. One enforcement actions was a national, multistate case that was managed by DOJ. Another response was a §7003 order that does not require a penalty. For the one penalty order reviewed, the calculation of the gravity and economic benefit components of the penalty were documented in the file.</p> <p>In FY2008, the Region 7 RCRA compliance program issued very few formal enforcement actions with penalties to facilities with RCRA violations in Iowa, therefore, there were too few files to draw specific conclusions about the ability of the Region to calculate and document penalties. The penalty calculation that was reviewed appeared to be correctly determined and documented.</p>
	Metric(s) and Quantitative Value	File Review Metric 11a – Percentage of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit. (100%)
	Action(s)	Meets SRF Program Requirements :  No further action required.
	Region's Response	

<b>[RCRA] Element 12 - Final Penalty Assessment and Collection</b>		
<b>Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.</b>		
Element + Finding Number	Finding	Region 7 RCRA compliance program penalties for RCRA violations in Iowa are not always documented in the files.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement (Recommendation Required)



	Explanation of the Finding	<p>The review team reviewed three formal enforcement actions, which were the only formal actions listed in OTIS for the FY 2008 review year. Of these actions, only one of them was a regional penalty order that contained a penalty to review.</p> <p>The file for the regional penalty order documented the penalty information and the ability to pay calculation that determined that the facility was not able to pay the penalty.</p> <p>Another file was for a facility that was part of a multi-state national enforcement action. There was a large penalty, which was assessed at the national level. Calculating the penalty was not the responsibility of Region 7 and there was no documentation in the region's file.</p> <p>Another file was for a §7003 order requiring considerable soil sampling and equipment decontamination, for which there was no penalty involved.</p>
	Metric(s) and Quantitative Value	<p>Data Metric 12b – Percent of final formal actions with penalty (1 FY). (100%)</p> <p>File Review Metric 12c – Percentage of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. (100%)</p> <p>File Review Metric 12d – Percentage of files that document collection of penalty. (0%)</p>
	Action(s)	<p>Meets SRF Program Requirements :</p> <p>No further action required.</p>
	Region's Response	

## Appendix A

### Status of Recommendations form Previous Review

During the first SRF review of Region’s compliance and enforcement programs, OECA identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

#	RCRA Subtitle C Recommendation	Status	Comments
1	Region 7 should ensure that it is inspecting 100% of TSDs in Iowa each year as required by statute.	Completed.	<p>During inspection targeting, staff review the inspection data in RCRAInfo and the current year’s inspection targets to determine which TSDs should be targeted for inspection in the upcoming fiscal year. Since FY05, 100% of the operating TSDs have been inspected every two years, as required by statute.</p> <p>The current inspection procedures provide sufficient documentation to determine generator status. The instance referred to in the “recommendation” occurred in one inspection report. It is the Region’s opinion that this does not rise to the level of an issue requiring further discussion or change to current operating procedures.</p>
2	The region needs to ensure that files for conditionally exempt small quantity generators (CESQG) have sufficient documentation to justify the accurate identification of source as conditionally exempt. The Region should work with the Office of Compliance to determine the type of documentation required and initiate its use during future evaluations of CESQGs.	Working.	<p>The reviewers saw no evidence in this file to indicate that an analysis was conducted to ensure that it is conditionally exempt. It appeared that that the inspector simply accepted the owner’s word without providing evidence to that effect. The recommendation asks that there be a procedure to document this in the file. The review team will be glad to review the Region’s procedures to see if nothing further is needed.</p>
3	It is recommended that the Region review those instances where the timeline exceeded the 2003 RCRA ERP to determine how it can streamline/shorten the period between inspection and formal enforcement activity.	Completed.	<p>Management receives quarterly reports from ICIS which provide the timeframe information from inspection to formal enforcement action. The branch actively manages the formal case load during weekly enforcement team meetings and regularly scheduled meetings between the program and regional counsel’s office.</p>
4	It is recommended that the Region look at the period of time to review information requests under RCRA Section 3007 and see if it can streamline the activities in order to identify violations earlier.	Completed	<p>See comment to #3, above.</p>

5	<p>Regional approach to handling first time failure to file Biennial Report is consistent with EPA's approach to smart enforcement. The Region should put in place a tickler system or other process to indicate if person has previously failed to file the Biennial Report. Such a process should provide notice to the Region so that appropriate enforcement action can be taken.</p> <p>Improve timeliness of enforcement actions by streamlining the process for case development and SNC determination.</p>	Completed	<p>The Region's RCRAInfo contractor tracks the submittal of all biennial report from LQGs and TSDs in Iowa. After the reporting period expires, this information is reviewed, and letters of warning are sent to non-responders. This information is recorded in the enforcement module of RCRAInfo. A search of RCRAInfo data will reveal repeat violators; therefore a separate 'tickler' system is not necessary.</p>
6	<p>It is recommended that the Region document in the case file, on a per count basis, whether or not an economic benefit was calculated and, ultimately, if a cumulative economic benefit should be captured as part of the overall assessed penalty. If the benefit per count is less than \$200, a simple notation to that effect in the file will suffice.</p>	Completed	<p>See comment to #3, above.</p> <p>This was addressed after the program review was conducted. Economic benefit is calculated on a per-count basis for each formal action. If the economic benefit would not logically reach the minimum required for inclusion in the penalty, a notation of such is made in the penalty calculation.</p>

## Appendix B

### Official Data Pull

#### FY 2008 Data

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Avg	Iowa Result	Count	Universe	Not Counted
1A1	Number of operating TSDFs in RCRAInfo	Data Quality				12	NA	NA	NA
1A2	Number of active LQGs in RCRAInfo	Data Quality				141	NA	NA	NA
1A3	Number of active SQGs in RCRAInfo	Data Quality				1,071	NA	NA	NA
1A4	Number of all other active sites in RCRAInfo	Data Quality				2,861	NA	NA	NA
1A5	Number of LQGs per latest official biennial report	Data Quality				133	NA	NA	NA
1B1	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			128	NA	NA	NA
1B2	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			128	NA	NA	NA
1C1	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			111	NA	NA	NA
1C2	Number of sites with violations determined during the FY	Data Quality	EPA			82	NA	NA	NA
1D1	Informal actions: number of sites (1 FY)	Data Quality	EPA			103	NA	NA	NA
1D2	Informal actions: number of actions (1 FY)	Data Quality	EPA			106	NA	NA	NA
1E1	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			3	NA	NA	NA
1E2	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			15	NA	NA	NA
1F1	Formal action: number of sites (1	Data Quality	EPA			3	NA	NA	NA

	FY)								
1F2	Formal action: number taken (1 FY)	Data Quality	EPA			3	NA	NA	NA
1G	Total amount of final penalties (1 FY)	Data Quality	EPA			\$252,029	NA	NA	NA
2A1	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	EPA			0	NA	NA	NA
2A2	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	EPA			0	NA	NA	NA
2B	Number of sites in violation for greater than 240 days	Data Quality	EPA			8	NA	NA	NA
3A	Percent SNCs entered more than 60 days after designation (1 FY)	Review Indicator	EPA			16.7%	1	6	5
5A	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	92.1%	41.7%	5	12	7
5B	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	25.6%	18.8%	25	133	108
5C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.1%	89.5%	119	133	14
5DC	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			11.6%	124	1071	947
5E1	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			170	NA	NA	NA
5E2	Inspections at active transporters (5 FYs)	Informational Only	Combined			21	NA	NA	NA
5E3	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			0	NA	NA	NA
5E4	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			20	NA	NA	NA
7C	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			64.1%	82	128	46
8A	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National	3.4%	2.3%	3	128	125

				Avg					
8B	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	79.6%	100%	3	3	0
8C	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	79.0%	100.0%	1	1	0
10A	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	25.3%	0.0%	0	3	3
10B	No activity indicator - number of formal actions (1 FY)	Review Indicator	EPA			3	NA	NA	NA
12A	No activity indicator - penalties (1 FY)	Review Indicator	EPA			\$252,029	NA	NA	NA
12B	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	79.4%	33.3%	1	3	2

## Appendix C

### PDA Worksheet (with OECA and Regional Comments)

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Ave	Iowa Result	Count	Universe	Not Counted	Discrepancy Explanation	HQ Evaluation (Preliminary)
1A1	Number of operating TSDFs in RCRAInfo	Data Quality				12	NA	NA	NA	2007 data response: 4 of the operating TSDs on the list are emergency permits issued in summer 2008 in response to floods.	potential concern
1A2	Number of active LQGs in RCRAInfo	Data Quality				141	NA	NA	NA		appears acceptable
1A3	Number of active SQGs in RCRAInfo	Data Quality				1,071	NA	NA	NA		appears acceptable
1A4	Number of all other active sites in RCRAInfo	Data Quality				2,861	NA	NA	NA		appears acceptable
1A5	Number of LQGs per latest official biennial report	Data Quality				133	NA	NA	NA		appears acceptable
1B1	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			128	NA	NA	NA		appears acceptable
1B2	Compliance	Data Quality	EPA			128	NA	NA	NA		appears

	monitoring: sites inspected (1 FY)										acceptable
1C1	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			111	NA	NA	NA		appears acceptable
1C2	Number of sites with violations determined during the FY	Data Quality	EPA			82	NA	NA	NA		appears acceptable
1D1	Informal actions: number of sites (1 FY)	Data Quality	EPA			103	NA	NA	NA		appears acceptable
1D2	Informal actions: number of actions (1 FY)	Data Quality	EPA			106	NA	NA	NA		appears acceptable
1E1	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			3	NA	NA	NA		appears acceptable
1E2	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			15	NA	NA	NA		appears acceptable
1F1	Formal action: number of sites (1 FY)	Data Quality	EPA			3	NA	NA	NA		appears acceptable
1F2	Formal action: number taken (1 FY)	Data Quality	EPA			3	NA	NA	NA		appears acceptable
1G	Total amount of final penalties (1 FY)	Data Quality	EPA			\$252,029	NA	NA	NA		appears acceptable
2A1	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	EPA			0	NA	NA	NA		appears acceptable



2A2	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	EPA			0	NA	NA	NA		appears acceptable
2B	Number of sites in violation for greater than 240 days	Data Quality	EPA			8	NA	NA	NA		minor issue
3A	Percent SNCs entered more than 60 days after designation (1 FY)	Review Indicator	EPA			16.7%	1	6	5		appears acceptable
5A	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	92.1%	41.7%	5	12	7	2007 data response: universe of TSDs is 7 in FY07	potential concern
5B	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	25.6%	18.8%	25	133	108		appears acceptable
5C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.1%	89.5%	119	133	14		appears acceptable
5DC	Inspection coverage for active SOGs (5 FYs)	Informational Only	Combined			11.6%	124	1071	947		appears acceptable
5E1	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			170	NA	NA	NA		appears acceptable
5E2	Inspections at	Informational	Combined			21	NA	NA	NA		appears

	active transporters (5 FYs)	Only									acceptable
5E3	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			0	NA	NA	NA		appears acceptable
5E4	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			20	NA	NA	NA		appears acceptable
7C	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			64.1%	82	128	46		appears acceptable
8A	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.4%	2.3%	3	128	125		minor issue
8B	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	79.6%	100%	3	3	0		appears acceptable
8C	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	79.0%	100.0%	1	1	0		appears acceptable

10A	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	25.3%	0.0%	0	3	3	potential concern
10B	No activity indicator - number of formal actions (1 FY)	Review Indicator	EPA			3	NA	NA	NA	appears acceptable
12A	No activity indicator - penalties (1 FY)	Review Indicator	EPA			\$252,029	NA	NA	NA	appears acceptable
12B	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	79.4%	33.3%	1	3	2	potential concern

## Appendix D

### Preliminary Data Analysis Chart

This section provides the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process, because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results. The full PDA is available in Appendix C of this report.

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA contains every metric: positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Ave	Iowa Result	Count	Universe	Not Counted	HQ Evaluation (Preliminary)	HQ Initial Findings
1A1	Number of operating TSDFs in RCRAInfo	Data Quality				12	NA	NA	NA	potential concern	HQ needs to work with R7 to determine the correct TSDF universe, and the universe should be as accurate as possible in RCRAInfo.  <b>Region 7 comments: Number of operating TSDFs - The flood situation in Iowa in FY08 resulted in the issuance of 5 emergency permits for staging of waste pending off-site disposal. These 5 emergency permits were issued in July and August 2008, and were only used for a short time. I'll work with our permitting staff to update RCRAInfo to show that these are no longer operating TSDFs.</b>

5A	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	92.1%	41.7%	5	12	7	potential concern	HQ needs to know the correct universe, but even if it is 7, data indicates the region didn't meet the national goal. <b>Region 7 comments:</b> <b>Inspection coverage for operating TSDFs - Given the above regarding emergency permits, the inspection coverage percentage has been skewed. If we remove the 5 emergency permits from the equation, the remaining 7 operating TSDFs were inspected at a rate of 71% during the FY07 and FY08 timeframe. 5 of 7 facilities were inspected within the two year timeframe, and of those 5, three are FSL operating TSDFs which are inspected annually. Two operating TSDFs were not inspected at the required interval. These are Equistar (IAD045372836) and Duane Arnold Energy Center (IAD984566133).</b>
8A	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.4%	2.3%	3	128	125	minor issue	The state is below the national average, though above half of the average. This metric may indicate a minor issue exists in applying the SNC definition to facilities with violations discovered.
10A	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	25.3%	0.0%	0	3	3	potential concern	According to RCRAInfo, all three SNCs received an informal action and no formal action. While the informal actions were taken within the timeframe recommended by the RCRA ERP, the ERP states that SNC should be addressed with formal action. <b>Region 7 comments: Percentage of SNCs with formal action/referral taken within 360 days - your concern is that all three SNCs flagged in FY08 were resolved with informal enforcement actions. While the RCRA ERP</b>

											states that SNCs should be addressed with formal enforcement actions, it does not state that they must be addressed with formal actions. In these three cases, the compliance officer flagged the facilities as SNC when it appeared that a formal action might be appropriate. However, as the case developed, it was determined that an informal action was the appropriate action to take. This is acceptable under the ERP.
12A	No activity indicator - penalties (1 FY)	Review Indicator	EPA			\$252,029	NA	NA	NA	appears acceptable	Number appears acceptable; however, this is one penalty - see metric 12B.
12B	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	79.4 %	33.3 %	1	3	2	potential concern	Data indicates state is more than half below the national average for final formal actions with penalty. The ERP states formal actions should impose appropriate sanctions, although these don't necessarily have to be penalties. <b>Region 7 comments: Percent of final formal actions with penalty - only one of the three formal actions taken in Iowa in FY08 included civil penalties. That facility is Equistar. The other two formal enforcement actions, Alexander Tech and Continental Labs, did not include civil penalties. This is acceptable, since the Alexander Tech action was a \$7003 order requiring considerable soil sampling and equipment decontamination, and the Continental Labs action was settled for zero civil penalty based on the facility's substantiated inability to pay the penalty. In Continental's case, considerable injunctive</b>



## Appendix E

### File Selection

The files were selected randomly from using the OTIS File Selection Tool. The total number of files in the selection universe was under 300, so the review team needed to select between 15 and 25 files. Files were selected to have a representative sample of majors, minors, municipalities, mines, and facilities with inspections, enforcement actions, SNC violations, minor violations, and Single Event Violations. Several files were selected as supplemental files in order to review specific issues from the PDA. This brought the total number of files requested to 34.

	Program ID	f_street	f_city	f_state	f_zip	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
1	IAD053739256	1511 S GARFIELD PL	MASON CITY	IA	50401	0	0	0	0	1	0	OTH	accepted_representa
2	IAR000505404	912 S STATE STREET	MADRID	IA	50156	0	0	0	0	1	0	OTH	accepted_representa
3	IAD045372836	3400 ANAMOSA RD	CLINTON	IA	52732	0	1	0	1	1	252,029	TSD(TSF)	accepted_representa
4	IAD005292172	8040 UNIVERSITY BLVD	DES MOINES	IA	50311	1	18	1	1	0	0	SQG	accepted_representa
5	IAR000003285	1250 N CENTER POINT RD	HIAWATHA	IA	52233	1	2	0	1	0	0	CES	accepted_representa
6	IAD005275540	2000 ROCKFORD RD	CHARLES CITY	IA	50616	0	0	0	1	0	0	TSD(LDF)	accepted_representa
7	IAR000502351	222 N 1ST ST	CLARINDA	IA	51632	1	10	0	1	0	0	SQG	accepted_representa
8	IAD073489288	665 LYBRAND ST	POSTVILLE	IA	52162	0	3	0	1	0	0	LQG	accepted_representa



9	IAD000156422	1500 W VAN BUREN	CENTERVILLE	IA	52544	1	5	0	0	0	0	LQG	accepted_representa
10	IAD980318133	240 ROYAL RD	KEOKUK	IA	52632	0	0	0	2	0	0	CES	accepted_representa
11	IAD000651265	5555 WILLOW CREEK DR SW	CEDAR RAPIDS	IA	52404	1	1	0	1	0	0	LQG	accepted_representa
12	IAD005288634	700 25TH ST NW	MASON CITY	IA	50401	1	12	0	1	0	0	SQG	accepted_representa
13	IAD050691617	2000 INDUSTRIAL PARK RD	IOWA CITY	IA	52240	0	1	0	1	0	0	LQG	accepted_representa
14	IAD981711062	15 S 20TH ST	COUNCIL BLUFFS	IA	51501	1	2	0	1	0	0	CES	accepted_representa
15	IAR000508952	1402 MARSHALL AVE	GALVA	IA	51020	1	0	0	0	0	0	CES	accepted_representa
16	IAD981506934	1205 PETERS DR	WATERLOO	IA	50703	0	2	0	1	0	0	LQG	accepted_representa
17	IAR000001552	1832 LOWER MUSCATINE RD	IOWA CITY	IA	52240	1	11	0	1	0	0	SQG	accepted_representa
18	IAR000008300	316 INDUSTRIAL ST	DEWITT	IA	52742	0	1	0	2	0	0	LQG	accepted_representa
19	IAT200010098	97 INDIANA AVE	DES MOINES	IA	50314	0	1	0	1	0	0	OTH	accepted_representa
20	IAD981718000	4704 NE 22ND	DES MOINES	IA	50313	1	2	0	1	0	0	TSD(TSF)	accepted_representa
21	IAD078092962	712 1ST ST NW	HAMPTON	IA	50441	0	1	0	1	0	0	LQG	accepted_representa
22	IAT200010924	HWY 965	CORALVILLE	IA	52241	1	0	0	1	0	0	TSD(TSF)	accepted_representa
23	IAD007276728	1020 ALBANY	ORANGE CITY	IA	51041	1	0	0	0	0	0	LQG	accepted_representa

		PLACE SE											
24	IAD000671354	7215 NAVAJO ST	COUNCIL BLUFFS	IA	51501	1	0	0	0	0	0	CES	accepted_representa
25	IAD980967343	1280 OLIVE AVE	HAMPTON	IA	50441	1	4	0	1	0	0	LQG	accepted_representa

## Appendix F

### File Review Metrics Analysis Form

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section VI of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Name of Region & State:

Review Period: FY 2008

Region 7/Iowa

	RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
1	Metric 2c	% of files reviewed where mandatory data are accurately reflected in the	87%	The data for 18 of the 22 files reviewed were accurately reflected in the national data system. Of the 4 files that were not accurate, the missing data were SNC end dates and return to compliance dates. Although data accuracy is high, the missing SNC and rtc dates appears to be a pattern. This does not represent a major problem, but it is something that the Region needs to pay attention to.

		national data system.		
2	<b>Metric 4a</b>	Planned inspections completed	TSD = 125% LQG = 96%	The FY 08 ACS inspection commitments were for 4 TSDs and 27 LQGs. The OTIS data show that 5 TSDs and 25 LQGs were inspected.
3	<b>Metric 4b</b>	Planned commitments completed	NA	NA
4	<b>Metric 6a</b>	# of inspection reports reviewed.	21 Files	
5	<b>Metric 6b</b>	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	100%	<p>21 of the 21 inspection reports reviewed were complete and contained sufficient documentation to determine compliance. The majority of inspections were conducted by contractors paid for with state grant funds that the region holds back for this purpose. The reports, from three or four different contractors consistently contained all of the elements of a complete inspection report, including: facility description, narrative, checklists, potential problems, etc. Four of the inspection reports reviewed were not contractor inspections: two inspection reports were by EPA inspectors and two were by SEEs. The Region's inspection reports were good, but not as good as the contractor reports. One of the EPA inspections needed more clear description of the facility. One of the SEE inspections was a Focused Compliance Inspection (FCI), which was appropriately noted in the OTIS Detailed Facility Report. Three of the four EPA inspections were timely.</p> <p>The SEE inspection report that was not timely took 238 days to complete. Review team was given a copy of the region's SOP for RCRA enforcement. This is a good piece, but it is not clear at where the plan accounts for management control in the process. Determinations are mainly made in the field by the inspectors, who utilize a Notice of Preliminary Findings (NOPF). These provide a detailed list of potential violations to the facility and are usually issued on the spot.</p>
6	<b>Metric 6c</b>	Inspections reports completed within a determined time frame.	29%	<p>5 of 21 inspection reports reviewed were completed in a timely manner. The average number of days to complete an inspection report is 59 days. The median number of days is 46. Three of the reports were over 100 days and one of those was over 230 days. There are several ways of analyzing this metric, but the bottom line is that the region is not meeting the timeliness criteria of 30 days. This is not a major issue, because, as is noted later, the compliance determinations appear to be correct and the region generally meets the 150 day deadline for reporting violations. It is an area where the region needs to pay attention and to try and improve. One reason for the timeliness of compliance determinations is that the contract inspectors may be making determinations in the field without management oversight. There is probably a need to be more specific about management control over the compliance determination process; however, that would cause delays in timeliness. The question is how much of a delay that would cause.</p>

7	<b>Metric 7a</b>	% of accurate compliance determinations based on inspection reports.	100%	Compliance determinations were made by the region in 22 of the 22 files reviewed. Most of the violations that are detected are SV and not SNC. They are mainly violations for universal waste, used oil, or not documenting credentials/qualifications of managers and staff. As far as it goes, these compliance determinations are correct. However, as noted above, these are contract inspections and the determinations may be made in the field. Conceivably, further Region 7 management review of the reports might assist in detecting other violations.
8	<b>Metric 7b</b>	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	94%	16 of the 17 violations reviewed were reported to the national data system within 150 days.
9	<b>Metric 8b</b>	% of violations in files reviewed that were accurately determined to be SNC.	95%	19 of the 20 facilities reviewed were received accurate compliance determinations including the 5 that were determined to be in SNC. Determinations are mainly made in the field by the inspectors, who utilize a Notice of Preliminary Findings (NOPF). These provide a detailed list of potential violations to the facility and are usually issued on the spot. The region uses these NOPFs as NOVs or warning letters. Often the facility corrects the problems and returns to compliance based on this. The problem is whether or not contractors should have the responsibility of making compliance determination and in the field no less. Essentially, the Region treats the NOPFs as NOVs. The problems at the facilities get resolved well before an official NOV or warning letter can be prepared. At that point the region sends a warning letter to the facility noting the problems that have been corrected and telling the facility to fix the other problems and that there is no need to let EPA know that it has been fixed. This appears to be problematic since absent a follow up inspection, there should probably be further correspondence indicating the facility did correct all problems.
10	<b>Metric 9a</b>	# of enforcement responses reviewed.	6 enforcement responses	
11	<b>Metric 9b</b>	% of enforcement responses that have returned or will return a	83%	5 of the 6 enforcement responses reviewed that were determined to be SNC has or will return the facility to compliance. All of these were addressed with informal enforcement, ie, warning letters or NOVs. In each of the files for the facilities with an enforcement response, there was a letter and documentation from the facility to demonstrate the return to compliance. The one file without documentation was for a multi-state and multi-regional civil action (Equistar) that was managed by DOJ. There was no copy of the order in the file. The regional compliance officer who helped with this

		source in SNC to compliance.		response told the reviewers that the order included injunctive relief for the violations at this facility.
12	Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	86%	6 of the 7 enforcement responses reviewed that were SVs have or will return the facility to compliance. All of these facilities were addressed with an informal enforcement response, ie, warning letter or NOV. 6 files contained letters from the facilities indicating that the facility was now complying with their requirements to maintain documentation of return to compliance. The region uses these NOPFs as NOV's or warning letters. Often the facility corrects the problems and returns to compliance based on this. The potential concern is that contractors may be making compliance determination and in the field no less. The Region treats the NOPFs as NOV's. Some of the problems at the facilities get resolved well before an official NOV or warning letter can be prepared. At that point the region sends a warning letter to the facility noting the problems that have been corrected and telling the facility to fix the other problems and that there is no need to let EPA know that it has been fixed. This issue may require further examination.
13	Metric 10e	% of enforcement responses reviewed that are taken in a timely manner.	83%	15 of the 18 violations reviewed were addressed in a timely manner, within 150 days. The 3 violations that were late were addressed in 240, 360, and 570 days. One formal action was an AO on consent. One was an AO with no penalty assessed. Another one was a SNC that was addressed with an informal enforcement response that took time for the region to negotiate with the facility.
14	Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	94%	17 of the 18 enforcement responses reviewed appeared to be appropriate to the violations. The one enforcement response that was not appropriate was SNC and should have been addressed with a formal enforcement response. Also, given the number of facilities in SNC, it is of concern that all of them were addressed with informal actions.
15	Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	One formal enforcement response was reviewed. Gravity and economic benefit were documented.

16	Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	One formal enforcement response was reviewed. The file documented the penalty information and the ability to pay calculation that determined that the facility was not able to pay the penalty.
17	Metric 12d	% of files that document collection of penalty.	0%	One formal enforcement response was reviewed. No penalty was collected because it was determined that the facility did not have the ability to pay.
<b>Findings Criteria</b>				
<b>Minor Issues/Appears Acceptable</b> -- No EPA recommendation required.				
<b>Potential Concern</b> -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis.				
<b>Significant Issue</b> -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation.				

State Review Framework

Review of Iowa's  
National Pollutant Discharge Elimination System  
Compliance and Enforcement Program  
In Federal Fiscal Year 2008

U.S. Environmental Protection Agency, Region 7

Final Report  
March 4, 2010



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## **I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure the Environmental Protection Agency (EPA) conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering the following: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and, penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

## A. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Iowa's National Pollutant Discharge Elimination System (NPDES) compliance and enforcement program is administered by the Iowa Department of Natural Resources (IDNR). Following is a summary of priorities, operating principles, and accomplishments within the state's NPDES program areas for Federal Fiscal Year (FFY) 2008.

### Wastewater

- IDNR monitors the compliance of major and minor wastewater dischargers through inspections and self-reported discharge monitoring. The state commitment is to conduct a compliance inspection at each major discharger every other year and at approximately one-fifth of all minor dischargers annually.
- The state reviews all incoming Discharge Monitoring Reports (DMRs) against permitted effluent limits. If a measured effluent parameter is outside the permitted range, IDNR's policy is to send the facility a Notice of Violation (NOV), which usually requests a response to indicate how the facility will prevent recurrence of the violation.
- The state's wastewater enforcement priorities are significant effluent violations and sanitary sewer overflows (SSOs)/by-pass events, which apply to both major and minor dischargers. The criteria for effluent violations follow the federal definition of Significant Noncompliance (SNC), while SSOs and by-passes are a high priority if they are caused by precipitation events or mechanical failures that meet discrete criteria.

### Stormwater

- Iowa has three general permits for stormwater discharges and individual permits for discharges from Municipal Separate Storm Sewer Systems (MS4s). IDNR monitors compliance at stormwater permittees primarily through complaint investigations, although some field offices conduct routine site inspections.
- IDNR conducted five planned inspections of MS4 communities in FFY 2008, some of which were at least the second inspection of these entities.
- The state's enforcement priorities for stormwater are operation without a permit, failure to renew a permit, and failure to have a Storm Water Pollution Prevention Plan (SWPPP), all of which are heightened by evidence of off-site impact.

### Confined Animal Feeding Operations (CAFOs)

- Iowa has approximately 1,800 CAFOs that are part of a larger AFO universe of approximately 7,300 facilities. In FFY 2008, IDNR conducted routine inspections at approximately 328 AFOs, including 23 CAFOs with NPDES permits.
- IDNR has identified specific enforcement priorities that apply to all AFOs, including CAFOs. These priorities are fish kills/acute water quality degradation, serious water quality degradation, unauthorized construction; and failure to submit manure management plan (MMP) updates.
- Since EPA's previous review of Iowa's CAFO enforcement program in 2005, IDNR has revised the Iowa Administrative Code to align with federal requirements, improved its checklist for inspecting NPDES facilities, and increased its inspection commitment for CAFOs.

#### Pretreatment

- The Iowa Pretreatment Program consists of 21 cities with approved programs and 50 Significant Industrial Users (SIUs) regulated by the state in non-Pretreatment program cities.
- Under agreements with EPA, the state conducted 15 audits or Pretreatment Compliance Inspections (PCIs) at Pretreatment program cities and 18 inspections at industries in non-Pretreatment cities in FFY 2008.
- The SNC rate at the 246 SIUs in Iowa's Pretreatment program cities did not exceed 3.3% in calendar year 2008, as reported in the cities' annual reports to the state. None of the 50 SIUs in non-Pretreatment cities were in SNC during the same period.
- IDNR did not consistently enter in the Permit Compliance System (PCS) required data for activities conducted by the state and approved Pretreatment cities.

#### Notices of Violation

- *Use of Informal Enforcement:* The state enforcement policy for all NPDES program areas is to respond to each documented violation upon discovery with an NOV or to escalate the matter to formal enforcement if it merits higher priority. With rare exceptions, EPA found that in FFY 2008 the state effectively implemented its enforcement policy, which meets the minimum national enforcement response expectations. EPA commends the state for its good discretion in this effort. See Finding 10-1 in Part IV.

## B. SUMMARY OF RESULTS

The previous review of Iowa's NPDES program for FFY 2005 led to 6 recommendations for improvement, 5 of which have been addressed in some fashion. One recommendation remains open in the form of a long-term resolution. The state had

agreed to develop a Standard Operating Procedure (SOP) for compliance evaluation inspections at CAFOs. At the time this report was written, the state had made several improvements to its inspection practices at CAFOs, as noted above.

For FFY 2008, EPA reviewed Iowa's NPDES compliance and enforcement program against 11 national program elements. For 10 of the 11 elements, EPA found the state's performance to be satisfactory, to have areas needing improvement, or to have a minor deficiency. For 1 element, EPA found both an area of satisfactory performance and an area needing improvement. Across all 11 elements, EPA made a total of 15 findings, which include 10 recommendations for areas needing improvement, 4 findings of satisfactory performance, and 1 finding of a minor deficiency. Following is a summary of the findings grouped by finding type. Findings are numbered to match the corresponding program element, which also matches the detailed discussion of findings in Part IV of this report. Note that EPA did not evaluate Element 3<sup>1</sup> in FFY 2008.

1. Elements where performance was good or no improvement was needed. For these elements, EPA's review found the state's performance to be satisfactory:
  - **Element 4—Completion of Commitments**
  - **Element 5—Inspection Coverage**
  - **Element 9—Enforcement Actions Promote Return to Compliance**
  - **Element 10—Timely and Appropriate Action.** Finding 10-1 refers to the state's practice of responding to nearly all documented violations with an NOV or more formal action, which is consistent with national program expectations; however, EPA addresses the lack of timely NOV response under the areas for state improvement below.
  
2. Elements with areas for state attention
  - **Element 12—Final Penalty Assessment and Collection**
    - a. Finding 12-1: Field office files for administrative orders with penalties did not consistently have documentation to explain any differences between initial and final assessed penalties and to demonstrate penalty collection. The state records this information in its central office legal files as a matter of procedure and should send copies to its field office files to communicate for the record that penalty actions are closed and their requirements satisfied.
  
3. Elements with areas for state improvement requiring recommendations.

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<sup>1</sup> Element 3 of the SRF evaluates the degree to which the state entered Minimum Data Requirements into PCS in a timely manner. EPA Headquarters did not make the data necessary to evaluate this element available until after the on-site review of IDNR's program had been conducted.

### *Data Quality*

- **Element 1—Data Completeness**

- a. Finding 1-1: The state does not consistently ensure that required data elements are completely, accurately, and successfully uploaded into the national program database.

Recommendation 1-1: More closely monitor the batching of data to PCS and ensure an optimum number and combination of data elements in batch files.

- b. Finding 1-2: The state does not actively monitor and update its compliance schedules in the state and national program databases, creating illegitimate violations in PCS.

Recommendation 1-2: Consistently monitor and update compliance schedules in the state and national program databases when milestones are achieved and due dates are amended.

- c. Finding 1-3: The state does not enter all of its enforcement actions in PCS for major and P.L. 92-500 minor facilities.

Recommendation 1-3: Begin entering all formal and informal enforcement actions in PCS for major and P.L. 92-500 minor facilities.

- **Element 2—Data Accuracy**

- a. Finding 2-1: Violations are not linked to formal enforcement actions against major facilities.

Recommendation 2-1: Begin entering and linking violation type codes to formal enforcement actions against majors.

- b. Finding 2-2: Inspection type codes chosen in PCS inaccurately represent some state inspections.

Recommendation 2-2: Some state inspections need a more accurate inspection type code in PCS.

### *Quality of Inspections and Violation Identification*

- **Element 6—Quality of Inspection Reports**

- a. Finding 6-1: Inspection reports do not consistently and clearly articulate the facility's compliance status with specific requirements.

Recommendation 6-1: Use brief summary narrative in inspection reports and/or report transmittals to specify any violations discovered or absence thereof.

- **Element 7—Identification of Alleged Violations; and**

- a. Finding 7-1: The state identifies single-event violations (SEVs) during inspections but does not enter SEVs in PCS.

Recommendation 7-1: EPA requests that the state provide a

- timeline for beginning to enter SEVs in PCS for major facilities.
- **Element 8—Identification of SNC and high-priority violations (HPVs)**
    - a. Finding 8-1: The state identifies SNC at major dischargers but does not currently enter SEVs that are SNC in PCS.

Recommendation 8-1: EPA requests that the state provide a timeline for beginning to enter SEVs in PCS for major facilities.

*Violation Response*

- **Element 10—Timely and Appropriate Action**
  - a. Finding 10-2: The state does not issue NOVs in a timely manner consistent with the timeframe established in the state EMS manual, particularly with regard to violations reported on DMRs.

Recommendation 10-2: Reduce response time for DMR violations and evaluate enforcement guidance concerning realistic NOV timeframes.

*Penalty Assessment*

- b. **Element 11—Penalty Calculation Method**
  - a. Finding 11-1: Penalties in administrative orders account for gravity and economic benefit, but the files do not identify specific delayed and avoided costs of compliance or demonstrate how calculations are made.

Recommendation 11-1: Provide detailed descriptions in administrative referral packages for how each type of avoided and delayed cost is calculated.

EPA did not review Iowa's other media programs at the time of the NPDES program review. Therefore, EPA did not identify any cross-media findings or recommendations during this review.

## **II. BACKGROUND ON IOWA'S PROGRAM AND THE REVIEW PROCESS**

The following discussion of Iowa's NPDES compliance and enforcement program is the product of dialog between EPA Region 7 and IDNR prior to and during the week of April 6, 2009, and also reflects other information shared by IDNR prior to the drafting of this report. Also included in this part of the report is a description of the review process.

The background information in this report pertains to Iowa's program as it operated at the time this report was written. In cases where the program operated differently during FFY 2008, the year under review, EPA notes those changes accordingly.

### **A. Overview of Iowa's Program**

#### **A1. Program Structure and Roles/Responsibilities**

All NPDES program components in Iowa are implemented by IDNR's Environmental Services Division (ESD) and Legal Services Bureau (LSB), with minor contributions from other divisions within IDNR as noted elsewhere in Section A. Within ESD, the Water Quality Bureau is located in the Des Moines central office and is responsible for issuing and renewing all NPDES permits. The Field Services and Compliance Bureau (FSCB) ensures compliance with and enforces Iowa's authorized NPDES program. Although the FSCB bureau chief position is located in IDNR's central office, most of the work conducted in the bureau takes place in IDNR's six field offices scattered geographically throughout the state. FSCB conducts compliance inspections, issues informal enforcement, and refers cases of noncompliance warranting formal enforcement to the LSB, which is located in IDNR's central office. For a detailed description of the process IDNR follows to take any enforcement and to escalate cases of noncompliance to formal enforcement, refer to Section A4 below.

The FSCB divides the responsibility for coordinating compliance and enforcement of environmental programs across the six field offices, with each field office supervisor uniquely responsible for one or more media program components. Within the NPDES program, compliance and enforcement for wastewater and stormwater are



coordinated by the Field Office #6 supervisor. Compliance and enforcement at CAFOs are coordinated by the Field Office #3 supervisor.

## A2. Staffing, Resources, and Training

The FSCB has 22.5 full-time equivalent staff, funded by IDNR's Environmental Performance Partnership Grant from EPA, assigned to compliance and enforcement duties for wastewater and AFOs. These duties include inspections, reviewing DMRs, and other NPDES field activities. IDNR provides its own funding for staff in the stormwater program. Each field office has a total number of staff between eleven and sixteen individuals across all media, a portion of whom is assigned to NPDES duties. NPDES inspectors in the field offices perform between 72 and 88 planned inspections per person per year, in addition to investigating complaints, performing work requests, and providing technical assistance either in person or via the phone.

The FSCB had two unfilled vacancies at the time of EPA's review that will not be funded in the state fiscal year starting July 1, 2009. IDNR also anticipates not being able to fill two other positions that will be vacated in 2009 due to retirements. The portion of IDNR's NPDES program funded by state appropriations is expected to dwindle in the state's 2009-2010 fiscal cycle due to declining state revenues.

The LSB consists of ten attorneys and one administrative assistant who handle all legal matters that are confronted by the agency. This number includes the chief legal counsel. The LSB did not have any unfilled vacancies at the time of this report.

The FSCB provides on-the-job training, whereby new employees learn how to conduct inspections by shadowing experienced staff. After some period of shadowing, the new staff learns how to write inspection reports for inspections conducted by experienced staff. After a couple of months, new staff begins to conduct inspections with oversight from experienced staff and writes their own reports. Upon mastering this, they graduate to conducting their own independent inspections, first at simple facilities like lagoons and eventually at mechanical and more complex facilities. FSCB also send their new staff to weeklong wastewater operator courses and, for stormwater inspectors, to erosion and sediment control courses. Each field office also has periodic meetings to discuss current issues within each NPDES program area, which fosters continuous career growth.

### A3. Data Reporting and Tracking Systems

IDNR maintains a sequel server relational database called National Pollutant Discharge System (NPDS), which the state uses as its primary NPDES management tool. The Water Quality Bureau within ESD is responsible for entering and maintaining data elements in the state NPDS database that pertain to the issuance and renewal of NPDES permits and any compliance schedules contained in those permits. The FSCB within ESD is responsible for using the database to record and track compliance inspections, notices of violation, formal enforcement actions filed by the LSB, and data submitted on DMRs (i.e. monthly operating reports, according to state nomenclature). Each field office processes this information for the facilities within its geographic boundaries and enters that information into NPDS.

The Information Technology Bureau (ITB), within IDNR's Management Services Division, maintains the NPDS database and is responsible for entering all Water Enforcement National Database (WENDB) data elements that are required to be populated in PCS. To enter WENDB data into PCS, ITB converts data in NPDS to XML files and uploads, or "batches" those files to PCS via EPA's Interim Data Exchange Flow (IDEF) –Central Data Exchange (CDX) system. If any data in the XML files is rejected by the IDEF-CDX interface, ITB is responsible for ensuring that errors are corrected and that the batching process is repeated until the data is properly and accurately uploaded.

### A4. Enforcement Policy and Escalation Process

The guidance that IDNR follows to assure compliance and conduct enforcement is described in the agency's Enforcement Management System (EMS) document, which was last revised September 2006. To better understand the state's protocol for escalating non-compliance to enforcement, EPA discussed this matter with management from the FSCB and LSB during the program review. Any discussion of state enforcement mechanisms must also consider EPA's definitions of formal and informal enforcement. Within the context of this program review, informal enforcement includes Notices of Violation (NOVs) or similar warning letters, while formal enforcement includes administrative consent orders, administrative orders, and judicial orders.

Field office personnel discover NPDES violations through inspections, review of

DMRs, or other means. Upon discovery, IDNR issues an NOV to the facility. As EPA verified by reviewing facility files, IDNR's NOV's usually require the facility to respond with a statement of corrective actions taken to prevent recurrence of the violation. Unless the violation is deemed by the field office to pose significant danger to human health or the environment, or for other reasons merits immediate escalation, IDNR monitors the facility's compliance following issuance of the NOV. IDNR might give the facility up to ninety days to return to compliance, during which time field office staff might revisit the facility, offer technical assistance, monitor DMRs, etc.

If the facility does not return to compliance within ninety days following issuance of the NOV, or if any violation was deemed to merit immediate escalation, IDNR evaluates the violation against enforcement priorities and referral standards, which are outlined in the EMS document. If the violation meets these priorities or standards, the field office forwards a summary of violations and evidence to the field office supervisor responsible for coordinating the relevant component of the NPDES program (i.e. the Field Office #3 or #6 supervisor). The inspector, field office supervisor, and FSCB bureau chief then decide whether to refer the case to LSB.

If FSCB decides to proceed with a referral, the EMS states that the coordinating field office should prepare a complete referral package within ten days and forward the package to LSB. The referral package is to follow the template provided in the EMS, which includes a description, history, and chronology of the violations as well as a penalty recommendation with justifications for economic benefit, gravity, and culpability. IDNR is subject to a statutory cap of \$10,000 for administrative penalties; therefore, if FSCB determines that a penalty in excess of \$10,000 is warranted, FSCB recommends in the referral that the case be pursued judicially by the state Attorney General (AG).

Upon receipt of the referral package, the chief legal counsel of LSB forwards the referral package to the AG, regardless of whether the recommended penalty exceeds \$10,000. The AG retains the prerogative to take or reject any case of its choosing. If the AG does not elect to take the case, the \$10,000 cap on penalty becomes effective and the case must proceed administratively within IDNR. The LSB attempts to settle cases on consent, although unilateral compliance orders are employed for exceptions such as emergency orders or when respondents have a history of unresponsiveness or recalcitrance. The EMS document provides that LSB should send the respondent an initial draft consent order or a compliance order within 100 days of receiving the case

from FSCB and that settlements on consent orders should be negotiated within 120 days of respondent's receipt of the draft consent order.

Because most enforcement cases initiated by IDNR proceed administratively, the statutory penalty cap imposes an effective limit on how much economic benefit the state can recoup from violators. For this reason, FSCB and LSB believe that a practical approach for estimating avoided and delayed costs of noncompliance is more appropriate than devoting additional time to using a model akin to EPA's BEN model, which, as the state has found, often produces economic benefit that far exceeds the \$10,000 statutory cap. IDNR's practical approach consists of using professional judgment to estimate the real-world benefit of types of avoided or delayed costs while tempering those estimations with the reality that the extent of penalty is limited. EPA's review of this approach is discussed in Part IV.

## B. State Priorities, Activities, and Accomplishments for NPDES Program Components

Iowa's enforcement priorities for wastewater, stormwater, and CAFOs are described in detail in Appendix B of the September 2006 EMS document and summarized here. IDNR management emphasized during the on-site program review that these priorities are frequently revised, but they provide an adequate summary of the priorities that guided the agency's work in FFY 2008. This section also discusses important aspects of how the state implements its NPDES program for the aforementioned program components as well as for the pretreatment program. Noteworthy activities and accomplishments that IDNR has conducted and realized through its implementation of these program components are also discussed.

### B1. Wastewater

IDNR applies its wastewater enforcement priorities to both major and minor dischargers. The priorities are significant effluent violations and sanitary sewer overflow (SSO)/by-pass events. Significant effluent violations are defined according to the federal definition of SNC as it is applied using technical review criteria and the guideline for chronic violations. For controlled discharge lagoons, occurrence of four effluent violations out of six consecutive discharge periods constitutes SNC. SSOs and by-passes are considered an enforcement priority if they result from a rain event with intensity and

duration lower than the five-year frequency curve listed in the Iowa Administrative Code or if the SSOs/by-passes result from mechanical failure or acts beyond the owner's control. For all types of enforcement priorities, the EMS document specifies appropriate levels of state response for variations in how the facility owner handles the circumstances of the violation.

The core element of Iowa's NPDES compliance and enforcement program is the state's regular inspections of wastewater dischargers. As discussed in Parts VI and VII of this report, IDNR had committed through FFY 2008 to inspecting all major dischargers once every other year and approximately one-fifth of all minor dischargers annually. The findings from these inspections, combined with review of facility DMRs, form the backbone of the state's discovery of NPDES violations. As discussed in Section A4 above, IDNR strives to issue an NOV for all violations discovered through these means. Parts VI and VII of this report discuss EPA's findings relative to these objectives for inspections and NOVs.

To document inspections, IDNR inspectors across all field offices use some variation of the wastewater treatment inspection report template, which provides a table with text fields, some checklist items, and space for narrative observations.

Since the 2005 NPDES enforcement review, Iowa has made noteworthy improvements to its control of SSOs. In addition to the emphasis placed on SSOs and by-passes in the state's enforcement priorities, IDNR recently created a "Top 10" list of facilities from each field office (i.e. approximately 60 facilities total) that have observed SSOs resulting from significant inflow and infiltration. The field offices work with these facilities voluntarily, via enforcement mechanisms, or in cooperation with EPA to reduce SSOs. Several facilities on the composite "Top 10" list are subject to enforceable schedules to reduce inflow and infiltration. Progress by the cities is centrally monitored by FSCB on a regular basis.

IDNR has also succeeded in revising the Iowa Administrative Code to tighten SSO reporting requirements. Effective 4/15/09, all unanticipated SSOs and by-passes—i.e. not just those unrelated to precipitation, as was previously the case—must be reported verbally to IDNR within twelve hours of onset or discovery. All SSOs must also be reported on monthly DMRs. IDNR has tracked all reported SSOs and by-passes in a central database since 2001. As a final note, the Water Quality Bureau received approval

prior to the review to begin including language in the standard conditions of all new and renewed permits that prohibits SSOs and by-passes. During the program review, EPA evaluated how effectively IDNR took action against high-priority SSOs during FFY 2008; see Part IV and Appendix D of the report.

## B2. Stormwater

The state's stormwater coordinator is in the central office in Des Moines and writes all of the stormwater permits. There is a general permit for construction, two general permits for industrial, and individual permits issued to MS4s. Compliance monitoring is done by the field offices and enforcement is initiated in the field offices as well. NOVs are issued from the field offices. If it is deemed necessary to escalate the enforcement response and issue an administrative order or administrative order on consent, the case is referred to the central office.

The state's enforcement priorities for stormwater include operation without a permit, failure to renew a permit, and failure to have a SWPPP. Any of these violations become a heightened priority if a facility fails to implement Best Management Practices (BMPs) and thereby creates adverse off-site impacts to the environment.

IDNR's compliance monitoring for construction stormwater consists mainly of investigations in response to complaints, although the stormwater coordinator thought that some field offices do routine site inspections in addition to responding to complaints.

IDNR seldom performs routine inspections of facilities holding one or both of the state's industrial stormwater permits. Most inspections at these facilities occur in conjunction with an inspection of another NPDES permit held by the facility or in response to a complaint.

The SRF file review included review of two MS4 communities. IDNR had performed inspections of both permittees: one municipality and a university. Review of the files revealed that the inspections that occurred in FFY 2008 were at least the second inspection of these entities. The inspections were thorough and the reports contained detailed information regarding program implementation. The state stormwater coordinator thought all but one field office has conducted MS4 inspections and that the inspections are planned rather than complaint-driven. Based on the files reviewed, EPA

commends the state's level of effort in MS4 compliance monitoring.

### B3. Concentrated Animal Feeding Operations (CAFOs)

CAFOs represent a subset of the much larger AFO universe that operates in Iowa. IDNR data indicates that there are approximately 7,300 AFOs, 1,800 of which are CAFOs. As a result, IDNR has identified specific enforcement priorities that apply to all AFOs. These priorities are fish kills/acute water quality degradation, serious water quality degradation, unauthorized construction; and failure to submit manure management plan (MMP) updates. Criteria for these priorities and the appropriate enforcement response are included in IDNR's EMS.

IDNR's compliance monitoring at AFOs consumes a significant amount of FSCB resources. In FFY 2008, IDNR performed approximately 328 routine inspections at AFOs in addition to other compliance related activities (i.e., site visits/surveys, compliance assistance, complaint investigations, etc.). As part of IDNR's FFY 2008-2009 Performance Partnership Grant (PPG) Workplan, the state committed to inspecting 20% of NPDES permitted CAFOs annually, which equates to approximately 24 facilities per year.

IDNR inspectors rely primarily on a checklist format for documenting compliance at AFOs/CAFOs. The most common types found during EPA's review were related to complaint/discharge investigations, inspections at NPDES permitted facilities and nutrient management plan (NMP) reviews. The format and structure of these checklists are similar to those discussed for wastewater in Section B1.

The compliance monitoring activities mentioned above resulted in a significant number of enforcement actions issued by IDNR during the review period. IDNR issued 235 NOVs, referred 34 facilities for formal enforcement action and issued 7 Administrative Orders to AFOs/CAFOs.

Since the 2005 NPDES program review, Iowa has made substantial improvements to its CAFO program. IDNR has made several revisions to the Iowa Administrative Code that have brought their AFO/CAFO regulations in line with federal CWA requirements. The checklists for NPDES permitted facilities and NMP review mentioned above, as well as the commitment to inspect 20% of permitted CAFOs, are all changes

adopted by IDNR since the last program review.

#### B4. Pretreatment

A detailed review of Iowa's Pretreatment Program can be found in Appendix B of this report. The following paragraphs present a summary of how the state implements its Pretreatment Program and the accomplishments it achieved in FFY 2008.

The Iowa Pretreatment Program consists of 21 cities with approved programs and 50 SIUs regulated by the state in non-Pretreatment program cities. Most pretreatment activities are performed by the six field offices including all industrial inspections, PCIs, and Pretreatment audits. The principle activities of IDNR's central office are collecting and processing annual reports, permitting industries in non-Pretreatment cities (through treatment agreements), and entering inspection and annual report data into PCS.

Through agreements with EPA, the state conducts audits and PCIs at Pretreatment program cities at prescribed frequencies. See the findings for metric 4 in Part VI and also Appendix B for EPA's review of these commitments. The state also reviews annual reports submitted by all Pretreatment program cities, which revealed for the review period that 246 SIUs were regulated by the program cities. 104 of these SIUs are subject to federal Categorical standards. Of the 246 SIUs, 245 (99.6%) have valid, unexpired permits. All SIUs were inspected at least once and sampled at least once in calendar year 2008 by their program city.

The compliance rate of the 246 SIUs was very high in calendar year 2008. For the six-month reporting period ending 6/30/08, only 8 SIUs (3.3%) were in SNC. For the six-month reporting period ending 12/31/08, the number of SNC facilities had dropped to 4 (1.6%). In addition, only 1 industry (0.4%) was in SNC for both reporting periods.

The NOV is the principle instrument that program cities use to address permit violations by SIUs. The 21 cities issued a combined total of 345 NOVs in calendar year 2008. When NOVs do not return a facility to compliance, administrative orders (AO) are commonly the next step in an escalated enforcement policy. The 21 Pretreatment cities found it necessary to issue a total of 8 AOs during the calendar year. In only one instance did a city find it necessary to take a civil action to return an industry to compliance.



The state regulates 50 Categorical SIUs in cities that do not have approved Pretreatment programs. IDNR reports the compliance status of these industries to EPA semi-annually on a calendar year basis. For the reporting period ending 6/30/08, no industries were in SNC with discharge limits, five industries (10%) were in infrequent noncompliance with discharge limits, and five (10%) had reporting violations.

According to the state's database, 18 of the 50 industries in non-Pretreatment cities (36%) were inspected by IDNR in FFY 2008. See the findings for metric 4 in Part VI and also Appendix B for EPA's review of this activity and the state's associated commitments. The state took formal enforcement action against one Categorical SIU in FFY 2008. EPA reviewed the ACO for this facility as part of the program review.

### C. Process for SRF Review

The following is a summary of the key inputs, milestones, and channels of communication that characterize what occurred during the SRF review. The Water Enforcement Branch at EPA Region 7 was responsible for conducting the review. Michael Boeglin, under the direction of Diane Huffman, was the coordinator and lead reviewer of Iowa's NPDES program. Other program reviewers included Liz Huston, Paul Marshall, Linda McKenzie, Stephen Pollard, and Cynthia Sans. The SRF Coordinator for EPA Region 7 is Pam Johnson.

Throughout the preparation, execution, and follow-up for the SRF review, all communication was channeled between the Water Enforcement Branch and the FSCB within IDNR. Dennis Ostwinkle, the wastewater coordinator for compliance and enforcement within FSCB, served as the primary point of contact within FSCB. Barbara Lynch, as the bureau chief for FSCB, was also present throughout the on-site SRF review.

EPA reviewed Iowa's NPDES compliance and enforcement program for FFY 2008. Following are the major milestones in the process:

- 2/9/09—EPA sent an opening letter to IDNR to initiate the SRF review and transmit the Official Data Set (ODS). The ODS formed the basis of the

Preliminary Data Analysis (PDA) of the state's compliance and enforcement data and activities in FFY 2008, as contained in PCS.

- 2/13/09—IDNR responded to the ODS via email to EPA. The state did not initially identify any discrepancies with the data; however, EPA replied to IDNR's initial ODS response, questioning whether the state database did not in fact have more accurate data than what was pulled from PCS for some of the metrics, particularly those concerning enforcement counts. IDNR then evaluated the validity of those metrics and provided accurate replacement data during the subsequent weeks. The corrected ODS, with state discrepancies, can be found in Appendix A.
- 3/16/09—EPA sent the final file selection list to IDNR via email three weeks prior to the on-site review, which is the amount of time that IDNR and EPA agreed would be sufficient to allow IDNR to pull the files and make them available for the on-site review. IDNR transported all of the selected facility files to the IDNR central office and Field Office #5, both in Des Moines.
- 3/20/09—EPA sent a letter to IDNR transmitting the initial findings from the PDA and the file selection list. The PDA is discussed in Section IV of this report, while the file selection process is discussed in Section V.
- 4/6-9/09—EPA's teams for the SRF review and permits program review conducted a joint on-site review in Des Moines, Iowa, at IDNR's central office. During the on-site review, EPA reviewed facility files, discussed programmatic matters with IDNR staff and management, and held an exit conference to report preliminary findings.

EPA's process for reviewing each file during the on-site review began with identifying the documents from FFY 2008 that were expected to be present in the file. Any additional documents from other fiscal years that related to the inspection and enforcement documents of primary interest were also identified. EPA then reviewed the documents, creating a complete chronology showing how the state handled any compliance concerns at the facility.

Programmatic discussions during the on-site review involved management and staff of the FSCB within IDNR. Discussions enabled EPA to answer questions about the content of facility files and to gain a thorough understanding of how the agency processes information and makes decisions regarding compliance and enforcement. An exit briefing on preliminary findings was held on the final day of the on-site review, which involved most members of the EPA review team as well as IDNR's ESD director and FSCB management.

Issuance of this report is the culmination of the on-site review and the entire SRF process. The state's response to the report is incorporated into the findings in Part IV and

appears in its entirety in Appendix H.

### III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the most recent review of Iowa's NPDES compliance and enforcement program, covering FFY 2005, EPA and Iowa identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions. Actions with a status of "completed" are those for which EPA determined, at approximately the time of the due date, that the state satisfied the recommended action. This information was extracted from the SRF Tracker on 1/13/09.

Element	Status	Due Date	Title/Description	Finding	Recommendation
Timely & Appropriate Actions	Completed	12/30/2008	SNC violations need formal enforcement actions.	SNC violations not appropriately addressed	SNC violations need to be addressed through the use of a formal enforcement action.
Violations ID'ed Appropriately	Long Term Resolution	12/30/2008	Develop SOP for CAFO Inspections	CEIs at CAFOs are inadequate	IDNR should develop SOP for CEIs at CAFOs
Insp Universe	Completed	12/30/2008	Inspect 20% of permitted CAFOs annually	Inadequate inspection coverage of permitted CAFO universe.	Inspect 20% of permitted CAFOs annually
Data Accurate	Completed	12/30/2008	Use appropriate inspection codes in PCS	IDNR does not utilize all appropriate inspection codes available for use in PCS	IDNR should utilize all inspection type codes available for use in PCS (i.e., Compliance Evaluation, Complaint, CAFO, Compliance Sampling, etc.) instead of only using the Compliance Evaluation code.
Penalty Calculations	Completed	12/30/2008	IDNR Needs to Develop a Civil Penalty Policy	IDNR does not have a civil penalty policy for use when determining penalties for CWA violations.	IDNR should develop and implement a civil penalty policy that not only covers penalties associated with CAFOs, but penalties for all

Element	Status	Due Date	Title/Description	Finding	Recommendation
					facilities (wastewater, storm water, etc.) covered under the state and federal clean water laws.
Violations ID'ed Appropriately	Completed	12/30/2008	IDNR should track all CSO/SSO dry and wet weather bypasses	IDNR does not adequately track CSO/SSO dry and wet weather bypasses.	IDNR should track all CSO/SSO dry and wet weather bypasses, and generate status reports for each CSO community.

#### IV. FINDINGS AND RECOMMENDATIONS

The findings and recommendations from EPA’s review of Iowa’s compliance and enforcement program are divided into two components. The first component includes findings and recommendations that pertain solely to the state’s pretreatment program. Because the twelve SRF metrics do not provide a thorough review of pretreatment program requirements, the report discusses this component separately in the narrative below. The second component is a table presenting the findings and recommendations under the twelve metrics, which apply to all NPDES program components.

##### A. Pretreatment Program Finding and Recommendation

Finding: IDNR has internal mechanisms for tracking compliance and enforcement data for Pretreatment program cities and industries in non-Pretreatment cities. Most pretreatment activities conducted by the state have Water Enforcement National Data Base (WENDB) elements that EPA

expects the state to enter into PCS. These include findings from state audits and PCIs. IDNR is also expected to enter WENDB elements associated with the content of annual reports received from the state's approved Pretreatment Program cities. EPA found that IDNR has not consistently entered the WENDB elements in PCS.

Recommendation: EPA recommends that IDNR provide a plan to EPA for how and when the state will begin to consistently enter pretreatment WENDB elements in PCS.

State Response: The Department will review its policies and procedures regarding our pretreatment program data entry. Monitoring and reporting in this program crosses several Bureaus within the Environmental Services Division. We will continue discussions and provide EPA with our plan for entering the required data into NPDS.

B. Findings and Recommendations Under the SRF Metrics

<b>Element 1: Data Completeness. Degree to which the Minimum Data Requirements are complete.</b>		
1-1	Finding	The state does not consistently ensure that required data elements are completely, accurately, and successfully uploaded into the national program database.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required

	<p>Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)</p>	<p>The state needs to more closely monitor the process for batching data to PCS and ensure that each batch file contains an optimum number and combination of data elements.</p> <p>EPA identified a large number of facilities with data quality problems due to errors in uploading data from the state database (NPDS) to PCS, as follows: 3 facilities had incomplete or inaccurate permit data in PCS; DMR data was in NPDS but not in PCS for 1 facility; approximately 20 inspections at major dischargers had not been uploaded from NPDS to PCS; and metric 10a included many facilities that were flagged for lack of timely action due to inaccurate DMR non-receipt.</p> <p>The four facilities with permit and DMR problems were flagged under metrics 1b3, 1c2, and 1c3. In some cases the data might not be present or accurate in NPDS and is thereby missing or inaccurate in PCS. In other cases data might be present and accurate in NPDS but not reflected as such in PCS, as was the case with missing major inspections. In either case, the state needs to monitor the uploading (i.e. batching) of data from NPDS to PCS to ascertain the cause of the problem. Each data element in a batch file passes through EPA's Central Data Exchange (CDX) and the GENTRAN program prior to being accepted by PCS. If GENTRAN rejects just one element, it will reject the entire batch file and generate an 'edit audit' report that the state must utilize to identify problematic data elements. The state should also ensure that the optimum number and combination of data elements are batched in any given file to minimize batching errors. EPA will offer assistance to the state in utilizing/reviewing both 'edit audit' reports and update reports and otherwise streamlining the batching process.</p> <p>EPA investigated the lag time between the state's batching events and the generation of 'edit audit' reports, as this has been identified as a potential bottleneck in getting the feedback needed to correct data problems. EPA found that, between 10/1/2007 and 5/8/2009, the state batched 158 submissions consisting of 1077 XML files, while 56 XML files were rejected. This number includes approximately 4 files rejected due to a GENTRAN processing error, while the remainder of rejections was due to invalid data in the state's XML files. IDNR was notified of the failure within 10 minutes of the submissions. However, the 'edit audit' reports, which enable the state to identify the reason for the file rejection, typically took days or weeks for EPA to generate and send to the state. This changed with a new CDX contract in autumn 2009, such that responses to upload failures are handled more expeditiously than before. Larger batch submissions are more likely to have invalid data and, when rejections occur, they require more time to diagnose. This points to the importance of batching more frequently and with smaller submission sizes.</p> <p>A large number of facilities were flagged under metric 10a due to the absence of DMR data in PCS, as explained by the batching problems above. Although the state had received DMRs and entered them into NPDS, the DMRs did not get uploaded into PCS. Because the state executed manual overrides to correct this and other data errors since they became known, the exact number of facilities under metric 10a that were affected in this way in May 2008 is unknown.</p>
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	<p>Metric(s) and Quantitative Value</p>	<p>1b3 – Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits); Value: 72.0%. The national goal is 95%. The national average is 91.1%.</p> <p>1c2 – Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms); Value: 87.9%. There is no numeric goal or national average for this data metric.</p> <p>1c3 – Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits); Value: 37.3%. There is no numeric goal or national average for this data metric.</p> <p>5a – Inspection coverage: NPDES majors (1 FY); Value: 52.8%. The national goal is 100%. The national average is 54.6%.</p> <p>8a2 – SNC rate: percent majors in SNC (1 FY); Value: 27.2%. There is no numeric goal for this data metric. The national average is 24.7%.</p> <p>10a – Major facilities without timely action (1 FY); Value: 99, or 79.2%. The national goal is &lt;2%. The national average is 16.9%.</p>
	<p>State Response</p>	<p>DNR is working on our data upload problems. So far we have identified 10 facilities that have data upload problems. Fran Amin, Dennis Ostwinkle, Russ Royce, and Brian Lee have been assigned to work on correcting and uploading the data. We are starting with the Major NPDES facilities. DNR has had two conference calls with EPA Region 7 to discuss issues, especially issues we will need help with from EPA. DNR will continue to work on and address data upload problems with assistance from EPA. Without knowing the full extent of the problem we cannot accurately estimate the time needed to make all the corrections to the Major facilities data. However, we will keep EPA Region 7 informed of our progress through the periodic conference calls.</p> <p>We would appreciate any assistance in expediting CDX Help Desk review of file upload failures. Sometimes Fran has waited weeks for a response. If the failure is a whole batch, then no subsequent data can be safely uploaded.</p>



	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<ol style="list-style-type: none"> <li>1. EPA will offer PCS training to IDNR staff in Des Moines by November 30, 2009.</li> <li>2. EPA will arrange a Webinar training session for IDNR to offer technical assistance and to enable IDNR to ask focused questions of EPA Headquarters and Region 7. EPA Region 7 will continue to guide IDNR staff in batching of data via teleconference. To be complete by April 30, 2010.</li> <li>3. IDNR will demonstrate proficiency in batching data, interpreting edit audit reports, and correcting data errors for major facilities by April 30, 2010.</li> <li>4. IDNR will demonstrate proficiency in batching data, interpreting edit audit reports, and correcting data errors for minor facilities by December 31, 2010.</li> </ol>
1-2	Finding	The state does not actively monitor and update its compliance schedules in the state and national program databases.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required

	<p>Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)</p>	<p>EPA reviewed 11 facilities that had compliance schedules from permits or administrative orders, as reflected by data the state had entered in PCS. All 11 facilities had compliance schedule violations appearing in PCS during FFY 2008, at least 3 of which were due to amended milestone due dates that the state did not change in PCS. The remaining violations appear in PCS because the state has not entered the milestone achievement dates corresponding to the schedule that PCS expects. It was not clear whether or not all of this milestone data was current in the state database. EPA learned that at least some of the facilities were in fact compliant with their schedules, but there was not enough information in the files to conclude this for all 11 facilities. At least some, if not all, of these violations are therefore erroneous. To rectify erroneous violations and prevent recurrence, the state needs to consistently monitor and update its compliance schedules in the state and national program databases by amending milestone due dates when appropriate and entering milestone achievement dates when they transpire. This is important because 3 major dischargers that EPA reviewed were in SNC and listed as lacking timely enforcement response due to compliance schedule violations. Several other facilities flagged under metric 10a for lack of timely action, though not reviewed by EPA, are also explained by this finding.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>1d1 – Violations at non-majors: noncompliance rate (1FY); Value: 20.7%. There is no numeric goal or national average for this data metric. 7b – Facilities with unresolved compliance schedule violations (at end of FY); Value: 87.5%. There is no numeric goal for this data metric. The national average is 40.9%. 7c – Facilities with unresolved permit schedule violations (at end of FY); Value: 72.0%. There is no numeric goal for this data metric. The national average is 30.6%. 8a2 – SNC rate: percent majors in SNC (1 FY); Value: 27.2%. There is no numeric goal for this data metric. The national average is 24.7%. 10a – Major facilities without timely action (1 FY); Value: 99, or 79.2%. The national goal is &lt;2%. The national average is 16.9%.</p>
	<p>State Response</p>	<p>The Field Services and Compliance Bureau (FSCB) will start entering all compliance milestone dates into the database. Once our NPDS database is populated the data will be uploaded into PCS.</p>

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	As described in the state response, the FSCB will start entering all compliance schedule milestone dates into the database and subsequently upload that data into PCS. To be fully implemented by April 30, 2010.
1-3	Finding	The state does not enter all of its enforcement actions in PCS for major and P.L. 92-500 minor facilities.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	The state issued 29 administrative orders and consent orders in FFY 2008, only 4 of which the state entered in its internal database (NPDS) and PCS. While the state entered 126 NOV's in PCS, EPA identified 3 NOV's in the files for major and P.L. 92-500 minor facilities that were not in PCS. In addition, IDNR maintains in its internal database that the state issued a total of 468 NOV's to facilities with wastewater and stormwater permits in FFY 2008. The state needs to begin entering all formal and informal enforcement actions in PCS, which are required data elements for major and P.L. 92-500 minor facilities. Upon request, EPA will assist the state in learning how to accomplish these tasks.

	Metric(s) Quantitative Value	1e2 – Informal actions: number of actions at major facilities (1FY); Value: 22. There is no numeric goal or national average for this data metric. 1e4 – Informal actions: number of actions at non-major facilities (1FY); Value: 104. There is no numeric goal or national average for this data metric. 1f2 – Formal actions: number of actions at major facilities (1FY); Value: 1. There is no numeric goal or national average for this data metric. 1f4 – Formal actions: number of actions at non-major facilities (1FY); Value: 3. There is no numeric goal or national average for this data metric.
	State Response	The Field Services and Compliance Bureau will begin entering all enforcement actions into our NPDES database. Once this is completed the data will be uploaded into PCS.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The state will start routinely entering into the state database, and uploading to PCS, all formal and informal enforcement actions against major and P.L. 92-500 facilities in FFY 2010. All actions in FFY 2010 should be in PCS by October 31, 2010.
<b>Element 2: Data Accuracy. Degree to which the Minimum Data Requirements are accurate. (example, correct codes used, dates are correct, etc.)</b>		
2-1	Finding	Violations are not linked to formal enforcement actions against major facilities.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required

	<p>Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)</p>	<p>The state issued formal enforcement actions against 5 major facilities in FFY 2008, 4 of which were neither entered in PCS nor linked to the violation type codes. In addition, the 1 action present in PCS is not linked to the underlying violation(s). The state needs to begin entering and linking violation type codes to formal enforcement actions against majors, which are required data elements in PCS.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>2a – # actions linked to violations (major facilities); Value: 0. The national goal is &gt;=80%. There is no national average for this data metric.</p>
	<p>State Response</p> <p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>The Department will begin reviewing our violation entries into our NPDS database. Some violations and enforcement data have not been entered into the database, which we believe is the underlying problem. As the DNR works on improving data quality, especially the uploads to PCS, we will continue to work on data entry by staff to incorporate and link the violations and enforcement actions.</p> <p>1. The state will investigate the capability of its NPDS database to link violations to formal enforcement actions. If violations can be linked, the state will then investigate whether those linkages can be batched to PCS intact with a resolution code for the enforcement actions. If violations cannot be linked in the NPDS database or cannot be batched intact to PCS, the state will do an analysis to determine which of the following alternatives is more efficient: 1) IDNR staff enters enforcement actions and their linkages to violations directly into PCS, with any needed training from EPA; or 2) the state modifies its NPDS database to enable IDNR to make linkages and for those linkages to be batched intact to PCS. This analysis is to be complete by April 30, 2010.</p> <p>2. The state will implement the method identified in the analysis above to put the linkage of enforcement actions to violations into PCS. The state will begin implementing this method for enforcement actions issued in FFY 2011 by December 31, 2010.</p>
<p>2-2</p>	<p>Finding</p>	<p>Inspection type codes chosen in PCS inaccurately represent some state inspections.</p>

	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	3 of 47 inspection reports reviewed by EPA had been recorded in PCS as ‘compliance evaluation (non-sampling),’ whereas a different code is more accurate. The 3 inspections covered one major discharger, one minor discharger, and one CAFO, all of which involved a review or discussion that was very limited in scope and that was summarized in a brief one-page letter to the facility. EPA recommends that the state select a more accurate inspection type code in PCS, such as follow-up visit. If, on the other hand, the state considers this type of inspection to be a true compliance evaluation inspection, then a much more comprehensive review needs to be presented in the inspection report.
	Metric(s) and Quantitative Value	2b – % of files reviewed where data is accurately reflected in the national data system; Value: 88%
	State Response	Field Services and Compliance staff will review the inspection code choices and ensure inspections are coded appropriately.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The state will review inspection code choices, ensure inspections are coded appropriately, and report to EPA on improvements by April 30, 2010.
<b>Element 3: Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.</b>		
3-1	Finding	EPA did not evaluate this metric for Iowa in FFY 2008. Element 3 of the SRF evaluates the degree to which the state entered Minimum Data Requirements into PCS in a timely manner. EPA Headquarters did not make the data necessary to evaluate this element available until after the on-site review of IDNR’s program had been conducted.

**Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.**

4-1	Finding	The state met most of its commitments expressed in IDNR's FFY 2008-2009 PPG Workplan.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)  Metric(s) and Quantitative Value	The state made progress toward satisfying its two-year inspection commitments and satisfied 8 of 10 compliance and enforcement commitments, not inspection-related, that were made for FFY 2008, all of which are specified in the FFY 2008-2009 PPG Workplan. The 2 commitments not satisfied pertain to the establishment of enforceable schedules for CSOs to implement Long-Term Control Plans and the timely submission of Quarterly Noncompliance Reports. For a detailed evaluation of non-inspection commitments that the state satisfied (metric 4b), please refer to Appendix G of this report.  4a – Planned inspections completed; A quantitative metric result is not applicable because the state's inspection commitments are expressed on a two-year basis. 4b – Planned commitments completed; Value: 80%
	State Response  Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	None required.

**Element 5: Inspection Coverage. Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).**

5-1	Finding	The state met its commitments and program requirements for NPDES inspections.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	<p>In IDNR's FFY 2008-2009 PPG Workplan, the state committed to inspecting 50% of its majors each year, for a total coverage of 100% across the two years. The state exceeded its 50% commitment for FFY 2008. This PPG Workplan commitment is evaluated here rather than Element 4 because it is associated with metric 5a below. For metric 5b, the state made satisfactory progress toward its two-year inspection commitment for NPDES non-majors, which likewise is expressed in the PPG Workplan. Other state inspection commitments do not correlate with metrics 5b2 and 5c and are therefore evaluated in Element 4.</p>
	Metric(s) and Quantitative Value	<p>5a – Inspections at NPDES majors with individual permits or general permits; Value: 52.8%. The national goal is 100%. The national average is 54.6%.</p> <p>5b1 – Inspections at NPDES non-majors with individual permits, excluding those permits that address solely stormwater, pretreatment, CAFOs, or CSOs; Value: 20.7%. There is no numeric goal or national average for this data metric.</p> <p>5b2 – Inspections at NPDES non-majors with general permits, excluding those permits that address solely stormwater, pretreatment, CAFOs, or CSOs; Value: 0%. There is no numeric goal or national average for this data metric.</p> <p>5c – Inspection coverage: NPDES other (those facilities not indicated in 5a or 5b); Value: 0%. There is no numeric goal or national average for this data metric.</p>
	State Response	



	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	None required.
<b>Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.</b>		
6-1	Finding	Inspection reports do not consistently and clearly articulate the facility's compliance status with specific permit, regulatory, or statutory requirements, despite that many of those reports include an indication that the facility should or must make improvement in some areas. Alternatively, if areas needing improvement do not in fact constitute violations, the reports do not contain a statement of compliance or some indication that no violations were identified.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	36 of 47 inspection reports reviewed by EPA did not clearly articulate the facility's compliance status. Inspection reports need to include definitive documentation of any violations present at the facility, which enables the state to make an accurate compliance determination and specify any required follow-up action for the facility. In reports for both compliance inspections and complaint investigations, EPA recommends the use of brief summary narrative in the report and/or report transmittal that specifies any violations discovered. When no violations are present, a short statement indicating such would be sufficient.

	Metric(s) and Quantitative Value	6b – % of inspection reports reviewed that are complete; Value: 4% 6c – % of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination; Value: 81% 7e – % of inspection reports or facility files reviewed that led to accurate compliance determinations; Value: 77%
	State Response	The Field Services and Compliance Bureau will review the current inspection report standard operating procedures (SOP) and make any needed adjustments. Our inspection reports will either state the specific violations in the text of the report, the cover letter or in some other manner that will clearly indicate the compliance status of the facility.  With regard to a CAFO standard operating procedure (SOP), the state will continue development of its compliance evaluation inspections at permitted CAFOs. Progress toward a state inspection SOP has been made with standard inspection forms and nutrient management plan forms and checklists. Further development of the state’s compliance evaluations at CAFOs will incorporate EPA’s CWA Inspection Report Evaluation Guide.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	As described in the state response, the FSCB will make any needed adjustments to the inspection report standard operating procedures to ensure that inspection reports state the specific violations in the text of the report, in the cover letter, or in some other manner that clearly indicates the compliance status of the facility. To be fully implemented by April 30, 2010.
<b>Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g. facility-reported information).</b>		
7-1	Finding	The state identifies SEVs during inspections but did not enter single-event violations (SEVs) in PCS in FFY 2008 for major dischargers and has not yet begun doing so.

	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice  <input type="checkbox"/> Meets SRF Program Requirements  <input type="checkbox"/> Area for State Attention  <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required</p>
	<p>Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)</p>	<p>SEVs are required to be entered into the national data system for majors. Although SEVs are not required to be entered into the national system for non-majors, accurate compliance determinations and state tracking of violations should be demonstrated. EPA requests that the state provide a timeline for beginning to enter SEVs in PCS for major facilities. EPA Region 7 began entering SEVs in the database effective October 1, 2008, and will offer guidance for the process of SEV entry, if requested. Based on the files reviewed, the state identifies violations in inspection reports but does not treat them as SEVs. Although NOVs are issued for such violations, the state does not track SEVs in its internal data system, which is a prerequisite to uploading SEV data into the national database.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>7a – # of single-event violations in PCS; Value: 0. There is no numeric goal or national average for this data metric.  8b – % of single event violations that are SNC, by comparing the # according to OTIS facility reports to the # determined by reviewing inspection reports; Value: 0%  8c – % of single event violations identified as SNC that are reported timely; Value: 0%</p>
	<p>State Response</p>	<p>Currently, Field staff does not enter SEVs into our NPDS database. We have had discussions with EPA Region 7 about SEVs and what qualifies as an SEV. During this discussion it was determined that Sanitary Sewer Overflows (SSOs) should likely be entered into the database as SEVs. Although the DNR has made SSOs a priority as has EPA, we have a long way to go and much work to do with this particular issue. In the next several months we will work on a plan to enter routine SEVs into the database. We will require additional time to complete discussions with EPA and work through some issues with SSOs before we can commit to entering these as SEVs. [Additional response given to EPA on 3/3/2010:] Due to resource constraints, IDNR is unwilling to enter SEVs at this time.</p>

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	1. EPA will develop best practices for the entry of SEVs after completing the region's first full year of SEV tracking. To be completed by June 30, 2010. 2. EPA will share best practices with the state, at which time EPA and the state will reassess what the state can do to begin tracking SEVs for majors in PCS. EPA will offer training if necessary and might be able to offer some work-sharing assistance with data entry. To be reassessed by December 31, 2010.
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**Element 8: Identification of SNC and HPV. Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.**

8-1	Finding	The state identifies SNC, as discovered during inspections at major dischargers, in the form of wastewater enforcement priorities during the enforcement escalation process; however, the state does not currently enter SEVs that are SNC in PCS.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	Based on EPA's file review, the state identifies violations that constitute SNC in an accurate and timely manner, as evidenced by the state's implementation of its enforcement escalation policy. However, because the state has not been entering SEVs that are SNC in PCS, EPA requests that the state provide a timeline for beginning to enter SEVs in PCS for major facilities. EPA Region 7 began entering SEVs in the database effective October 1, 2008, and will offer guidance for the process of SEV entry, if requested. Note that EPA does not expect the state to designate any SSOs at major facilities as SNC, given that EPA's Interim Wet Weather SNC Policy is only voluntary for state NPDES programs. This means it is not necessary for IDNR staff to enter Reportable Non-Compliance detection and resolution codes into PCS.

	Metric(s) and Quantitative Value	8a1 – Active major facilities in SNC during the reporting year; Value: 34. There is no numeric goal or national average for this data metric. 8b – % of single event violations that are SNC, by comparing the # according to OTIS facility reports to the # determined by reviewing inspection reports; Value: 0% 8c – % of single event violations identified as SNC that are reported timely; Value: 0%
	State Response	Currently, Field staff do not enter SEVs into our NPDS database. We have had discussions with EPA Region 7 about SEVs and what qualifies as an SEV. During this discussion it was determined that Sanitary Sewer Overflows (SSOs) should likely be entered into the database as SEVs. Although the DNR has made SSOs a priority as has EPA, we have a long way to go and much work to do with this particular issue. In the next several months we will work on a plan to enter routine SEVs into the database. We will require additional time to complete discussions with EPA and work through some issues with SSOs before we can commit to entering these as SEVs. [Additional response given to EPA on 3/3/2010:] Due to resource constraints, IDNR is unwilling to enter SEVs at this time.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	1. EPA will develop best practices for the entry of SEVs after completing the region's first full year of SEV tracking. To be completed by June 30, 2010. 2. EPA will share best practices with the state, at which time EPA and the state will reassess what the state can do to begin tracking SEVs for majors in PCS. EPA will offer training if necessary and might be able to offer some work-sharing assistance with data entry. To be reassessed by December 31, 2010.
<b>Element 9: Enforcement Actions Promote Return to Compliance. Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.</b>		
9-1	Finding	The state executes its enforcement actions in a manner that, with few exceptions, results in violators returning to compliance.

	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	6 of 31 enforcement actions that EPA reviewed did not return the facility to compliance. 4 of those were NOV's that required a corrective action and response from the facility but were nonetheless unsuccessful at returning the facility to compliance. The 4 NOV's applied to 2 facilities, both of which remained the subject of continued and/or escalated enforcement by the state after the initial NOV's were unsuccessful. Based on EPA's file review, the remaining 2 of 6 enforcement actions did not return the facility to compliance and were not followed by an escalated state response or a response that ultimately achieved compliance. EPA views these two instances as isolated and not representative of the state's overall performance under this metric.
	Metric(s) and Quantitative Value	9b – % of enforcement responses that have returned or will return a source in SNC to compliance; Value: 100% 9c – % of enforcement responses that have returned or will return a source with non-SNC violations to compliance; Value: 80%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	None required.
<b>Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.</b>		
10-1	Finding	The state responds to nearly all documented violations with an NOV and escalates egregious violations to formal enforcement when appropriate.

	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice  <input checked="" type="checkbox"/> Meets SRF Program Requirements  <input type="checkbox"/> Area for State Attention  <input type="checkbox"/> Area for State Improvement – Recommendations Required</p>
	<p>Explanation. (If Area of Concern, describe why action not required, if any.) Recommendation, provide recommended action.)</p>	<p>State enforcement response policy is to respond to every violation with an NOV. EPA verified during the file review that, with few exceptions, nearly every documented violation in FFY 2008 was followed with an NOV from the field office. This includes violations documented in inspection reports as well as effluent violations appearing on DMRs. In cases where the nature of the violation warranted formal enforcement, EPA found that the state appropriately escalated its enforcement by referring the case to the LSB. The state also escalated cases in which the NOV was unsuccessful at returning the facility to compliance, notwithstanding that it was an appropriate initial response. Only 1 of 31 enforcement actions that EPA reviewed was an NOV that, based on information in the file, did not return the facility to compliance and that was not followed by escalated enforcement.</p> <p>Responding to violations in this way is consistent with the enforcement escalation policy in the state's Enforcement Management System document. The escalation policy meets SRF program requirements for minimum enforcement response, as set forth in EPA's national enforcement response policy based on the 1989 Enforcement Management System, which offers discretion on the type of response for some minor violations. By implementing its escalation policy, the state meets SRF program requirements for metrics 10c and 10d, and the state should be commended for using its discretion to issue NOV's in the manner described above.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>10c – % of enforcement responses reviewed that address SNC that are appropriate to the violations; Value: 100%  10d – % of enforcement responses reviewed that appropriately address non-SNC violations; Value: 100%</p>
	<p>State Response  Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>None required.</p>

10-2	Finding	The state does not issue NOVs in a timely manner consistent with the timeframe established in the state EMS manual, particularly with regard to violations reported on DMRs.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	None of the 19 NOVs that EPA reviewed were issued within 7 days following discovery of the violation. The average duration from discovery to issuance was 32 days, and the median duration was 17 days. 3 of the 5 NOVs with the longest duration from discovery to issuance involved violations reported on DMRs. The state needs to reduce the amount of time for identification of, and response to, violations reported on DMRs. The state should also evaluate its EMS guidance with regard to realistic response times for issuance of NOVs, as 7 days from discovery of the violation is a laudable goal but is not practical in most circumstances.
	Metric(s) and Quantitative Value	10e – % of enforcement responses for non-SNC violations where a response was taken in a timely manner; Value: 27%
	State Response	There are many reasons why we do not issue NOVs in a timely manner consistent with the timeframe noted in the EMS. We will review the EMS document and make adjustments to reflect current practices.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The state will review its EMS language pertaining to timeliness of NOVs and revise the language to set expectations for realistic and appropriate NOV response times. To be considered in this revision is what constitutes an appropriate timeframe for identifying and responding to DMR violations. To be completed by April 30, 2010.



**Element 11: Penalty Calculation Method. Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.**

11-1	Finding	Penalties in administrative orders account for gravity and economic benefit, but the files do not identify specific delayed and avoided costs of compliance or demonstrate how calculations are made.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required

	<p>Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)</p>	<p>The 12 administrative orders with penalties reviewed by EPA did not have sufficient information in the files to demonstrate that the state calculated specific delayed and avoided costs. The state pursues most of its enforcement in the administrative arena, which imposes a statutory maximum penalty of \$10,000. During the review, IDNR staff explained that this penalty cap is a practical limitation that tempers the resources the state is willing to commit to calculating the full extent of economic benefit in most cases. Staff also indicated that IDNR sometimes orders very small communities to make major upgrades or replace entire treatment facilities, which carries a high cost to the community. Field office staff proposes a modest penalty based on gravity and/or culpability in many such cases involving small communities but contends that inclusion of delayed costs would result in penalties far exceeding what is appropriate or what the community has an ability to pay.</p> <p>EPA's response is that IDNR's Enforcement Management System refers to Iowa's administrative code, which states that "the actual or reasonably estimated economic benefit shall always be assessed" in administrative penalties. This reflects EPA's national policy framework, which sets the expectation that enforcement programs will recoup the economic benefit of noncompliance except in situations involving one or more of four circumstances, including inability to pay or litigation-related reasons. EPA's Interim CWA Settlement Penalty Policy provides an example of how to incorporate these exceptions into a framework for considering appropriate economic benefit. EPA recommends that IDNR present a plan for drafting referrals from field offices that articulate specific delayed and avoided costs to capture the full extent of economic benefit, except in cases where the state will document that one of the four exceptions applies. This will lead to enforcement referral packages and penalty actions that, whether taken administratively or by the state Attorney General, are consistent with national policy.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>11a – % of penalty calculations that consider and include where appropriate gravity and economic benefit; Value: 75%</p>
	<p>State Response</p>	<p>While we disagree with the statements in the draft report, we will review the economic benefit portion of our enforcement referrals and will develop a plan to more accurately account for delayed and avoided costs. We will need further dialogue with EPA on this issue.</p>

<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>As described in the state response, the state will develop a plan to more accurately account for delayed and avoided costs, and to articulate how the specific cost calculations are made, except in cases where the state can document that one of four exceptions applies. To be completed and implemented by October 31, 2010.</p>
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**Element 12: Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.**

12-1	Finding	Field office files for administrative orders with penalties did not consistently have documentation to explain the rationale for any differences between initial and final assessed penalties and to demonstrate that penalties have been collected.
	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	<p>For administrative orders with penalties, the state routinely maintains records in its central office legal files to document the rationale for any difference between initial and final assessed penalties and to show that the state has collected penalties. 8 of 10 and 9 of 10 administrative orders with final penalties reviewed by EPA had these two items documented in the central office legal files, respectively, at the time of review. One additional file (Outback Campground &amp; Resort) did at one time have both items in the file, as attested by IDNR, although those items could not be located at the time of review. In one file (Winterset), the difference between initial and final assessed penalty had not been documented because the final penalty amount was higher than the initial penalty. EPA also found that these two pieces of information were absent from the field office files for the administrative penalty orders reviewed. Because these two items summarize the output of penalty actions, the state should ensure that the two items are documented for all actions in central and field office files. Documentation might include a memo to the file, internal correspondence, drafts of orders with markup and comments, copy of the penalty check, etc.</p>

	Metric(s) and Quantitative Value	12a – % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty; Value: 90% 12b – % of enforcement actions with penalties that document collection of penalties; Value: 100%
	State Response	DNR will continue to provide documentation of these two items in its legal files and will ensure that the field office files also contain these items.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	None required.

**V. ELEMENT 13**

Iowa did not submit any information to EPA for consideration under Element 13 of the SRF Process. Element 13 is an optional opportunity for the state to give EPA information about achievements in compliance assistance, pollution prevention, innovation, self disclosure programs, outcome measures, etc. to educate EPA about the scope of the state's program.

## APPENDIX A

### PRELIMINARY DATA ANALYSIS SUMMARY

This section provides the results of the Preliminary Data Analysis (PDA) for only those data metrics where potential concerns or potential areas of exemplary performance were identified. The full PDA, available in Appendix B, contains every metric—positive, neutral or negative.

The PDA forms the initial structure for the SRF report and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process, because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, potential concerns raised during the PDA are the basis for EPA to request any supplemental files that may be necessary to review.

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. Initial Findings indicate the observed results, as they are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating Initial Findings against the file review results where appropriate and after dialogue with the state has occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of the report.

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency*	National Goal	National Average	Iowa Metric	Initial Findings

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency*	National Goal	National Average	Iowa Metric	Initial Findings
C01B2C	Major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.3%	99.6%	35 of the 125 majors are absent from this metric and appear to have no DMRs in PCS for the 4 <sup>th</sup> Qtr, which inflates the state's metric. Investigation is needed.
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	91.1%	72.0%	Many of the 35 majors appear to have no DMRs in PCS for the entire fiscal year, the root cause of which needs to be investigated. EPA suspects the data in PCS does not accurately represent all DMRs that facilities have submitted.
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			87.9%	51 minors appear to have DMR tracking turned on in PCS but do not have any DMRs in PCS for the 4 <sup>th</sup> Qtr. File review needs to investigate why.

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency*	National Goal	National Average	Iowa Metric	Initial Findings
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			37.3%	EPA and the state need to discuss how the state is screening DMRs for violations for 63% of minors that do not have DMRs entered for the 4 <sup>th</sup> Qtr.
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			1	The state did not record in PCS 4 of its 5 actions against majors.
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			1	The state did not record in PCS 4 of its 5 actions against majors.
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	The state did not record in PCS enforcement actions for some P.L. 92-500 minors.



Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency*	National Goal	National Average	Iowa Metric	Initial Findings
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			3	The state did not record in PCS enforcement actions for some P.L. 92-500 minors.
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=: 80%		0.0%	Violations are required to be linked to 5 enforcement actions against majors, 4 of which the state did not enter in PCS.
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	EPA and the state need to discuss whether the state tracks SEVs internally. Whether or not that is the case, file review needs to examine whether SEVs are being adequately identified.
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	The state does not need to enter this information in PCS, but it does need to track SEVs internally.
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		40.9%	87.5%	File review is needed to determine if the violations are being accurately reported and if the state is taking appropriate action in response to legitimate violations.

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency*	National Goal	National Average	Iowa Metric	Initial Findings
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		30.6%	72.0%	File review is needed to determine if the violations are being accurately reported and if the state is taking appropriate action in response to legitimate violations.
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		55.1%	60.8%	File review should focus on the nature of DMR violations and how the state is responding to them.
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			34	Because the state does not enter SEVs in PCS, file review should investigate whether the state's identification of SEVs during inspections would elevate this number.
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.7%	27.2%	EPA will review several of these facilities to determine how the state has responded to the high rate of SNC, given that the rate has increased from 21% in FFY 2007.
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	16.9%	79.2%	EPA will review several of these facilities to examine their circumstances and the state's lack of response.

\*Denotes whether the metric describes activity for the state alone or for the state and EPA.

**APPENDIX B**

**Complete Preliminary Data Analysis (PDA) with State Corrections**

This appendix to the report contains the complete PDA for all metrics reviewed under the SRF. The table also includes the state’s discrepancies with the data used by EPA to conduct the PDA. EPA’s analysis of state discrepancies is included within the final column for Initial Findings.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			125	NA	NA	NA	No				Appears Acceptable	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined		-	0	NA	NA	NA	No				Not reviewed	
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,538	NA	NA	NA	No				Appears Acceptable	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			316	NA	NA	NA	No				Appears Acceptable	This universe consists of facilities with G.P.#5 authorizations for discharge from quarry and sand/gravel operations.
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.3%	99.6%	489	491	2	No				Potential Concern	35 of the 125 majors are absent from this metric and have no DMRs in PCS for the 4th Qtr, which inflates the state's metric. Investigation is needed.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	91.1%	72.0%	90	125	35	No				Potential Concern; Suppl File Review	Many of the 35 majors appear to have no DMRs in PCS for the entire fiscal year, the root cause of which needs to be investigated.
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			5.7%	2	35	33	No				Appears Acceptable	2 cases of DMR non-receipt were manually overridden. The 33 cases of SNC/RNC that were unaffected should be investigated in Metric 8a.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			87.9%	1868	2124	256	No				Potential Concern; Suppl File Review	51 minors appear to have DMR tracking turned on in PCS but do not have any DMRs in PCS for the 4th Qtr. File review needs to investigate why.
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			37.3%	573	1536	963	No				Potential Concern	EPA and the state need to discuss how the state is screening DMRs for violations for 63% of minors that do not have DMRs entered for the 4th Qtr.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			20.7%	318	1,538	1,220	No				Minor issue	The cause of noncompliance for at least half of these facilities is compliance schedule violations.
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0	No				Not reviewed	EPA has not yet requested the ANCR from the state for FFY 2008.



Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			6	NA	NA	NA	No				Appears Acceptable	EPA and the state should investigate whether PCS expects DMRs for these facilities and whether the facilities are submitting DMRs.
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			12	NA	NA	NA	No				Appears Acceptable	
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			22	NA	NA	NA	No				Appears Acceptable	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			86	NA	NA	NA	No				Appears Acceptable	
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			104	NA	NA	NA	No				Appears Acceptable	
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	Yes	5	Internal database	Formal enf. actions maintained on IDNR's website	Potential Concern	The state did not record in PCS 4 of its 5 actions against majors.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			1	NA	NA	NA	Yes	5	Internal database	Formal enf. actions maintained on IDNR's website	Potential Concern	The state did not record in PCS 4 of its 5 actions against majors.
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			2	NA	NA	NA	Yes	23	Internal database	Formal enf. actions maintained on IDNR's website	Potential Concern	The state did not record in PCS enforcement actions for some P.L. 92-500 minors.
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			3	NA	NA	NA	Yes	23	Internal database	Formal enf. actions maintained on IDNR's website	Potential Concern	The state did not record in PCS enforcement actions for some P.L. 92-500 minors.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Uni-verse	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA	Yes	21	Internal database	Penalty orders maintained on IDNR's website	Appears Acceptable	The state took all penalty actions in FFY 2008 in the administrative arena, which does not have data entry requirements.
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA	Yes	\$131,336	Internal database	Penalty orders maintained on IDNR's website	Appears Acceptable	The state took all penalty actions in FFY 2008 in the administrative arena, which does not have data entry requirements.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA	No				Appears Acceptable	
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$7,000	NA	NA	NA	Yes	\$138,336	Internal database	Includes \$7,000 from prior two fiscal years	Appears Acceptable	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Uni-verse	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA	Yes	21	Internal database	Penalty orders maintained on IDNR's website	Appears Acceptable	The state took all penalty actions in FFY 2008 in the administrative arena, which does not have data entry requirements.
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0.0%	0	1	1	No				Potential Concern	Violations are required to be linked to 5 enforcement actions against majors, 4 of which the state did not enter in PCS.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Uni-verse	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	54.6%	46.4%	58	125	67	Yes	66	Internal database	Data not reflected in PCS	Minor Issue	At 52.8%, the state exceeded the 50% annual coverage commitment in its PPG Workplan , although 8 facilities did not have inspections recorded in PCS.
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			20.7%	318	1,538	1,220	No				Appears Acceptable	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0.0%	0	316	316	No				Appears Acceptable	The universe of 316 non-major general permits is for dewatering at industrial facilities. No monitoring commitment.
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	46	46	No				Inconclusive	The state's inspection commitment for CAFOs is addressed under metric 4.



Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA	No				Potential Concern	EPA and the state need to discuss whether the state tracks SEVs internally. Whether or not that is the case, file review needs to examine whether SEVs are being adequately identified.
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA	No				Potential Concern	The state does not need to enter this information in PCS, but it does need to track SEVs internally.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		40.9%	87.5%	7	8	1	No				Potential Concern; Suppl File Review	File review is needed to determine if the violations are being accurately reported and if the state is taking appropriate action in response to legitimate violations.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		30.6%	72.0%	18	25	7	No				Potential Concern; Suppl File Review	File review is needed to determine if the violations are being accurately reported and if the state is taking appropriate action in response to legitimate violations.
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		55.1%	60.8%	76	125	49	No				Potential Concern; Suppl File Review	File review should focus on the nature of DMR violations and how the state is responding to them.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Uni-verse	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			34	NA	NA	NA	No				Potential Concern	Because the state does not enter SEVs in PCS, file review should investigate whether the state's identification of SEVs during inspections would elevate this number.
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		24.7%	27.2%	34	125	91	No				Potential Concern; Suppl File Review	EPA will review several of these facilities to determine how the state has responded to the high rate of SNC.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Iowa Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	16.9%	79.2%	99	125	26	No				Potential Concern; Suppl File Review	EPA will review several of these facilities to examine the circumstances at these facilities and the state's lack of response.

## APPENDIX C

### FILE SELECTION

The files that EPA reviewed were selected according to the SRF File Selection Protocol, which employs a web-based file selection tool that is available to EPA and state users at the following web address: [http://www.epa-otis.gov/cgi-bin/test/srf/srf\\_fileselection.cgi](http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A below, states should be able to recreate the results in the table in section B.

#### A. File Selection Process

Using the SRF File Selection Protocol, EPA selected forty-nine facility files for the on-site review. This includes forty files chosen to be representative of the universe of NPDES facilities in Iowa that were the subject of compliance monitoring or enforcement activity in FFY 2008. The remaining nine files were chosen as supplemental files to help EPA better understand whether any potential areas of concern identified via the data metrics review are substantiated.

The forty representative files were chosen to provide a cross-section of permit types and, within each permit type, to represent facilities that were the subject of an inspection as well as those that were subject to an enforcement action. Altogether, twenty-two files were selected as representative inspections and eighteen as representative enforcement actions. The disparity between these two numbers reflects the fact that IDNR's inspections vastly outnumbered the enforcement actions in FFY 2008. Facilities were also chosen to represent the variety of compliance history information in PCS and to represent the relative proportions of facilities from the state's six field offices.

The choice of particular facilities within each representative category was random and made using the Online Tracking Information System (OTIS) SRF File Selection Tool when possible. Core program majors and minors, CAFOs, and MS4s were selected using the OTIS tool. The national program database did not have records for construction or industrial stormwater sites or

pretreatment facilities located outside approved pretreatment cities; therefore, EPA had to randomly select files from facility and activity lists provided by IDNR.

The nine supplemental files were selected to enable EPA to better understand the nature of eight potential concerns associated with data metrics, which were identified in the preliminary data analysis. Five of the nine files were selected for multiple potential concerns. The eight potential concerns are listed below. For each concern, information is presented in the following order: associated metric number, name of the metric, number of supplemental files associated with the metric, and total number of files (representative plus supplemental) that were reviewed in association with the metric.

- 1b3: Major individual permits—DMR entry rate based on DMRs expected (2, 3);
- 1c2: Non-major individual permits—DMR entry rate based on DMRs expected (forms/forms) (2, 3);
- 1c3: Non-major individual permits—DMR entry rate based on DMRs expected (permits/permits) (3, 7);
- 7b: Facilities with unresolved compliance schedule violations (3, 3);
- 7c: Facilities with unresolved permit schedule violations (2, 7);
- 7d: Major facilities with DMR violations (1, 5);
- 8a2: SNC rate—Major facilities in SNC (2, 5); and
- 10a: Major facilities without timely action (1, 5).

Additional facility files, beyond those chosen through the representative selection process, were necessary to determine whether each potential concern will require follow-up action by IDNR and/or EPA.

## B. File Selection Table

The following table presents the output from EPA's use of the web-based selection tool on the SRF website and displays compliance and enforcement data for the 29 facilities that EPA was able to select using the tool. The absence of facility names in the table mirrors the absence of names during the selection process, which supported randomness.

In addition to the types of facilities discussed in Section A above that did not have permit information in PCS and OTIS, two core program minors and three CAFOs were not represented in the database and likewise were not selected using the OTIS tool but rather using supplemental information provided by the state. These five facilities were subject to enforcement actions without having been issued NPDES permits. IDNR did not record these actions in PCS, though the state was only required to do so for the two core program minors. Also, EPA and IDNR agreed to two substitutions during on-site file reviews, due to facility profiles and inspection activities that were different from what EPA had anticipated. The full list of facilities reviewed by EPA can be found in Appendix F with a description of what EPA found for each facility.

Program	Field						Informal	Formal				
ID	f_city	f_state	Office	f_zip	Universe	Selection Rationale	Inspection	Violation	SNC	Action	Action	Penalty
IA0001783	BURLINGTON	IA	6	52406	Major	accepted_supplemental	1	15	3	0	0	0
IA0003727	PALO	IA	1	52324	Major	accepted_supplemental	0	4	1	0	0	0
IA0023574	MOUNT AYR	IA	4	50854	Minor	accepted_supplemental	0	87	4	0	0	0
IA0025364	EARLING	IA	4	51530	Minor	accepted_representative	0	29	4	1	0	0
IA0025933	ELDORA	IA	2	50627	Minor	accepted_representative	1	40	4	0	0	0
IA0026620	LESTER	IA	3	51242	Minor	accepted_representative	1	73	4	0	0	0
IA0027723	NEWTON	IA	5	50208	Major	accepted_supplemental	1	0	0	0	0	0
	NORTH											
IA0032905	LIBERTY	IA	6	52317	Major	accepted_representative	2	20	4	0	0	0
IA0034291	WINTERSET	IA	5	50273	Major	accepted_representative	0	6	3	0	0	0
IA0035068	OCHEYEDAN	IA	3	51354	Minor	accepted_representative	0	14	0	0	0	0
IA0035238	CRESTON	IA	4	50801	Major	accepted_representative	1	3	0	2	0	0
IA0035424	BEACON	IA	5	52534	Minor	accepted_representative	1	12	4	0	0	0
IA0036129	SUTHERLAND	IA	3	51058	Minor	accepted_supplemental	1	40	4	1	0	0
IA0041840	FONTANELLE	IA	4	50846	Minor	accepted_supplemental	0	92	4	0	0	0



IA0043095	SIoux CITY	IA	3	51106	Major	accepted_representative	0	6	3	2	0	0
IA0047791	HUMBOLDT	IA	2	50548	Major	accepted_representative	1	5	0	0	0	0
IA0056910	LAWLER	IA	1	52154	Minor	accepted_supplemental	1	48	4	0	0	0
IA0061891	WALCOTT	IA	6	52773	Minor	accepted_representative	1	32	4	0	0	0
IA0062006	BRIDGEWATER	IA	4	50837	Minor	accepted_representative	1	47	4	1	0	0
IA0067806	AMES	IA	5	50010	Minor	accepted_representative	2	9	0	1	0	0
IA0071366	FORT DODGE	IA	2	50501	Minor	accepted_representative	1	0	0	0	0	0
IA0074195	SIoux CITY	IA	3	51107	Minor	accepted_representative	0	4	0	0	0	0
IA0074802	CENTERVILLE	IA	6	52584	Minor	accepted_supplemental	1	6	0	0	0	0
IA0076821	DUBUQUE	IA	1	52003	Minor	accepted_representative	1	0	0	1	0	0
IA0077704	ALTON	IA	3	51003	Minor	accepted_representative	1	0	0	0	0	0
IA0077852	ROCK VALLEY	IA	3	51247	Minor	accepted_representative	1	0	0	0	0	0
IA0078182	IOWA CITY	IA	6	52242	Minor	accepted_representative	1	0	0	0	0	0
IA0078476	LEWIS	IA	4	51544	Minor	accepted_representative	1	0	0	0	0	0
IA0078603	ALTOONA	IA	5	50009	Minor	accepted_representative	1	0	0	0	0	0

## APPENDIX D

### FILE REVIEW ANALYSIS

The table in this section presents the initial observations of EPA regarding Iowa's program performance as measured against file metrics. Initial Findings are developed by EPA at the conclusion of the file review process. Narrative summaries of what EPA found in each of the forty-nine facility files can be found in Appendix F. An Initial Finding is a statement of fact about the observed performance against file metrics and states whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of the good practice or potential issue. Initial Findings are preliminary observations; the quantitative metrics in the table are based on available information and are used by the reviewers to identify areas for further investigation. Due to the limited sample size, statistical comparisons among programs or across states cannot be made.

Using the results of the preliminary data analysis and dialogue with the state, EPA developed the Initial Findings below into Findings, which are presented in Section IV of the report.

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
<b>2. Data Accuracy. Degree to which the Minimum Data Requirements are accurate. (example, correct codes used, dates are correct, etc.)</b>			
2b	% of files reviewed where data is accurately reflected in the national data system.	88%	<p>44 of 50 files that EPA reviewed had the required data accurately entered in PCS. Instances of missing or inaccurate data included two missing inspections, inaccurate use of inspection codes, use of wrong facility name, and inaccurate date for two NOVs. This metric value does not consider missing informal and formal enforcement actions and penalties, which are documented by metrics 1e, 1f, and 1g, respectively. Nor does it consider missing SEVs, which are documented by metric 8a.</p> <p>Inaccurate use of inspection codes occurred for 3 facilities. One major discharger, one minor discharger, and one CAFO had inspections coded in PCS as 'compliance evaluation (non-sampling),' whereas a different code is more accurate. See Finding 2-2 and the accompanying</p>

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
			<p>recommendation in Part VII of the report for a complete description. In addition, EPA replaced a CAFO file with an alternate selection during the review because the state inaccurately coded and took credit for the inspection as a "compliance evaluation," whereas it was actually a joint inspection with EPA as the lead.</p>
<p><b>4. Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.</b></p>			
4a	% of planned inspections completed.	N/A	<p>The state committed to inspecting a specified number of facilities across various NPDES and pretreatment categories during the two-year period covered by IDNR's FFY 2008-2009 PPG Workplan. Because the year under review is the first in the two-year period, an evaluation of whether these commitments were met during FFY 2008 cannot be made. The two-year inspection commitments, followed by the accomplishments just in FFY 2008, are as follows:</p> <ul style="list-style-type: none"> <li>○ Inspect 21 publicly-owned treatment works with pretreatment programs; Actual in FFY 2008: 15</li> <li>○ Inspect 50 industrial contributors in non-pretreatment cities; Actual in FFY 2008: 18</li> <li>○ Inspect 134 majors; Actual in FFY 2008: 81</li> <li>○ Inspect 280 minors; Actual in FFY 2008: 293</li> <li>○ Inspect 48 open feedlots with NPDES permits; Actual in FFY 2008: 23</li> </ul> <p>Inspection commitments for core program major and minor dischargers are also discussed in metrics 5a through 5c.</p>
4b	Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The commitments should be	80%	<p>The state satisfied 8 of 10 compliance and enforcement commitments, not inspection-related, that were made for FFY 2008, as specified in the FFY 2008-2009 PPG Workplan. The evaluation for each commitment, and the initial findings that result, are explained in detail in Attachment G to this report.</p>

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
	broken out and identified. The types of commitments to include would be for inspections, pretreatment reviews, DMR entry, compliance data entry, follow-up on SRF recommendations, etc.		
<b>6. Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.</b>			
6a	# of inspection reports reviewed.	47	EPA reviewed 47 inspection reports during the file review process.
6b	% of inspection reports reviewed that are complete.	4%	2 of 47 inspection reports that EPA reviewed contained all components on EPA's inspection report checklist. Of the 45 reports that did not contain all components on the checklist, 15 were missing only time of day of inspection and/or telephone number of the facility. Other commonly missing components included NPDES identification number and factual information to support cited observations regarding permit requirements.
6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	81%	38 of 47 inspection reports reviewed by EPA provided sufficient documentation to lead to an accurate compliance determination. The numbers for program components are as follows: 12 of 16 wastewater inspections; 7 of 12 CAFO inspections; 15 of 15 stormwater inspections/audits, and 4 of 4 industrial user pretreatment inspections.
6d	% of inspection reports reviewed that are timely.	38%	EPA found sufficient information in the files to evaluate this metric for 45 inspection reports. 37 of 45 reports were completed within 30 days of the inspection, which is the threshold that EPA adopts for its own inspection reports. 17 of 45 reports were completed within 10 days of the

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
			inspection, which is the state's internal goal used for this metric. The average duration from inspection to report completion was 20 days, while the median duration was 14 days.
<b>7. Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).</b>			
7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	77%	36 of 47 inspection reports led to an accurate compliance determination. Among the 11 reports without determinations, only 1 involved an inaccuracy. For the remaining 10 instances, the report and report transmittal (when present) did not clearly articulate whether or not the state had identified specific violations. The numbers of reports with determinations are as follows for NPDES program components: 10 of 16 wastewater inspections; 7 of 12 CAFO inspections; 15 of 15 stormwater inspections; and 4 of 4 industrial user pretreatment inspections.
<b>8. Identification of SNC and HPV. Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.</b>			
8b	% of single event violation(s) that are SNC according to OTIS facility reports. EPA compares the # of SEVs that are SNC according to OTIS facility reports to the # of SEVs that are SNC determined by reviewing the inspection reports.	0%	The state did not enter SEVs in PCS in FFY 2008. EPA reviewed 3 inspection reports at 3 major facilities that documented SEVs, and all of those violations were non-SNC. 2 of the 3 SEVs involved wet weather, including occurrence of excessive inflow and infiltration (I&I) and failure to report basement back-ups. 3 of the 5 inspection reports at major facilities assessed the facility's record of addressing and/or reporting SSOs and I&I, which reflects the state's emphasis on identifying and correcting wet weather deficiencies.

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
8c	% of single event violation(s) identified as SNC that are reported timely.	0%	The state did not enter SEVs in PCS in FFY 2008. Therefore, EPA could not assess the timeliness of reporting SEVs that are SNC.
<b>9. Enforcement Actions Promote Return to Compliance. Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.</b>			
9a	# of formal/informal enforcement responses reviewed	31	EPA reviewed 19 NOVs and 12 administrative orders and consent orders.
9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	EPA reviewed only 1 enforcement response that addressed SNC, and this was for a facility that failed to submit a DMR by the reporting due date.
9c	% of enforcement responses that have returned or will return a source with non-SNC violations to compliance.	80%	24 of 30 enforcement responses pertaining to non-SNC violations that EPA reviewed achieved a commitment to corrective actions by the facility that have or will return the facility to compliance. The 6 actions not counted applied to 3 facilities. 5 actions were NOVs (informal actions) and 1 was an administrative order. 1 NOV did not require a response from the facility, while the other 4 NOVs were ineffective at achieving a return to compliance. For the administrative order, EPA did not find any documents in the file to suggest that the facility had returned to compliance with the specific items addressed in the order, and the state issued the same facility an NOV approximately 1 month following the effective date of the order. EPA could not determine, however, if the NOV addressed the same violations that the order was intended to resolve.
<b>10. Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.</b>			
10b	% of reviewed enforcement responses to address SNC that are taken in a timely	100%	EPA reviewed 1 enforcement response for a major facility in SNC, and this NOV was issued in a timely manner according to state and EPA guidance.

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
	manner.		
10c	% of enforcement-responses reviewed that address SNC that are appropriate to the violations.	100%	EPA reviewed 1 enforcement response for a major facility in SNC, and this NOV was appropriate to the facility's violations.
10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	All 30 enforcement responses pertaining to non-SNC violations that EPA reviewed were an appropriate course of action given the nature of the violations.
10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	27%	22 of 30 enforcement responses reviewed by EPA were not taken in a timely manner according to state and EPA guidance. This included 18 of 18 NOVs and 4 of 12 administrative orders. The state EMS guidance provides that NOVs should be issued within 7 days of discovery of the violation, whereas all of the NOVs that EPA reviewed exceeded this threshold. The average number of days from discovery of the violation to issuance of an NOV was 32 days, and the median length of time to issuance was 17 days. Among administrative orders, 3 of the 4 orders exceeding the state's timeframe from discovery of the violation to issuance of the order involved unusual circumstances. These circumstances included a CAFO facility with a new and complex conditional NPDES permit, a treatment facility that needed additional time to collect necessary data, and an order that needed to be revised mid-course based on occurrence of an additional discharge.
<b>11. Penalty Calculation Method. Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.</b>			

CWA Metric #	CWA File Review Metric Description	Metric Value	Initial Findings
11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	75%	EPA reviewed 12 enforcement files that assessed actual or stipulated penalties, 10 of which included discussion of appropriate gravity. The 2 files that did not discuss how gravity was calculated assessed stipulated penalties. 9 of the 12 enforcement files contained documentation that economic benefit was considered, as explained generically in the administrative orders for types of costs that violators did not incur. However, none of the 12 enforcement files had information in the order or referral package discussing specific avoided or delayed costs, including duration, that would lead the reader to understand how the economic benefit was calculated—i.e. how the numbers were chosen and whether they were calculated in a manner consistent with national policy. Regardless of how the state calculates economic benefit, a statutory maximum of \$10,000 for administrative penalties inhibits the state from assessing the full extent of economic benefit in many cases.
<b>12. Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.</b>			
12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	80%	EPA reviewed 10 final penalties in administrative orders, 8 of which had documentation in the file at the time of review explaining the rationale for differences between the initial and final assessed penalties, if such a difference existed. For several of the cases, initial and final penalties were the same, which makes explanation of any differences not applicable. For 2 of 10 cases, EPA could not find documentation explaining the difference between initial and final assessed penalties.
12b	% of enforcement actions with penalties that document collection of penalties.	90%	EPA reviewed 10 final penalties in administrative orders, 9 of which had evidence in the file at the time of review showing that penalties had been collected. This evidence was in the form of copies of checks in all but one of the 9



<b>CWA Metric #</b>	<b>CWA File Review Metric Description</b>	<b>Metric Value</b>	<b>Initial Findings</b>
			cases, the exception being a page printed from the state's database showing that the penalty had been paid.

## **APPENDIX E**

### **Pretreatment Program Review**

#### Introduction

The Iowa Pretreatment Program consists of 21 cities with approved programs and 50 Significant Industrial Users (SIUs) regulated by the state in non-Pretreatment program cities. Most pretreatment activities are performed by the six field offices including all industrial inspections, Pretreatment Compliance Inspections (PCIs) and Pretreatment audits. The Central Office's principle activities are collecting and processing annual reports, permitting industries in non-Pretreatment cities (through treatment agreements), and entering inspection and annual report data into PCS.

In September 2005, EPA finalized the Pretreatment Streamlining Rules which were designed to clarify and correct deficiencies in the General Pretreatment Regulations, simplify various implementation procedures, and grant relief from certain sampling requirements. Before any Approved Pretreatment program in a delegated state can implement these streamlining changes, the state must first adopt the Streamlining Regulations. The State of Iowa adopted the Pretreatment Streamlining Regulations on 11/15/06.

#### Audits and PCIs

Since the last program evaluation, audit and PCI policies have changed. In the past, all 21 program cities received either a PCI or audit once per year, either by EPA or IDNR. EPA usually would perform six audits per fiscal year, leaving 15 for IDNR to do. However, in October 2007, EPA Headquarters introduced the Compliance Monitoring Strategy (CMS), which established alternative inspection schedules across the NPDES program, including that of Pretreatment program cities. EPA Region 7 and IDNR reached agreement on a CMS that reflects the state commitments made in IDNR's FFY 2008-09 PPG Workplan.

Under the CMS and PPG Workplan, each Pretreatment program city is to receive a Pretreatment audit at least once every five years, and a PCI every two years that an audit has not been done. In effect, this means that each Pretreatment program city will receive three Pretreatment inspections over a five year period. Prorated to an annual inspection commitment, this translates to slightly fewer than 13 Pretreatment inspections per year. During FFY 2008, 15 of the 21 program cities received either a Pretreatment audit or PCI (four by EPA, 11 by IDNR), which would exceed the annual level required to meet the CMS five-year goal.

## Pretreatment Annual Reports

Pretreatment program cities are required by regulation to submit an annual report of implementation activities to their Approval Authority each year. This is done on a calendar year basis, so the time period covered by the Pretreatment annual reports for 2008 does not align with the federal fiscal year (FFY) that this program review covers. However, the information in the reports is reflective of the activities of the Program cities over the FFY time frame.

All 21 approved programs submitted their annual reports in a timely manner (the reports are due by March 31 of each year). All reports were done in the prescribed IDNR format, which guarantees the uniformity, and thus quality, of the information. A review of these reports revealed that all Iowa program cities are implementing effective Pretreatment programs. From the reports, the following statistics were drawn: The combined number of SIUs regulated by the program cities is 246, of which 104 are subject to federal Categorical standards. Of these 246 SIUs, 245 (99.6%) have valid, unexpired permits. All SIUs were inspected at least once and sampled at least once in calendar year 2008 by their program city.

The compliance rate of the 246 SIUs was very high in FFY 2008. For the six-month reporting period ending 6/30/08, only 8 SIUs (3.3%) were in Significant Noncompliance (SNC). For the six-month reporting period ending 12/31/08, the number of SNC facilities had dropped to 4 (1.6%). In addition, only 1 industry (0.4%) was in SNC for both reporting periods.

The NOV is the principle instrument for addressing permit violations by SIUs in program cities. The 21 cities issued a combined total of 345 NOVs in calendar year 2008. When NOVs do not return a facility to compliance, administrative orders (AO) are commonly the next step in an escalated enforcement policy. The 21 Pretreatment cities found it necessary to issue a total of 8 AOs during the calendar year. In only one instance did a city find it necessary to take a civil action to return an industry to compliance.

## Industries Outside Pretreatment Cities

The state regulates 50 Categorical SIUs in cities that do not have approved Pretreatment programs. This is done through treatment agreements (TA), a process where discharge limits for the industry are incorporated into the NPDES permit of the municipality to which they discharge. To ensure consistent monitoring of these industries, sampling requirements of the industry by the city are also included in the NPDES permit. Because the TA is the method by which the state has chosen

to fulfill the requirement of the General Pretreatment Regulations to issue control mechanisms to SIUs, any backlog in the state's NPDES permitting process that affects non-Pretreatment cities would have detrimental effects on ensuring the SIUs are regulated by the proper limits and Pretreatment requirements.

The state reports the compliance status of these industries to EPA semi-annually on a calendar year basis. For the reporting period ending 6/30/08, no industries were in SNC with discharge limits, five industries (10%) were in infrequent noncompliance with discharge limits, and five (10%) had reporting violations.

According to the state's database, 18 of the 50 industries (36%) were inspected by IDNR in FFY 2008. These 18 inspections were done in three of the six field offices, so it is possible that more inspections were done but not entered into the state's database. IDNR had committed through its workplan with EPA to inspect these 50 industries over the two-year workplan cycle. To fulfill this commitment, 32 industries will need to be inspected in FFY 2009.

The state took formal enforcement action against one Categorical SIU in FFY 2008. EPA reviewed the ACO for this facility as part of the program review.

### Data Tracking

IDNR has internal mechanisms for tracking compliance and enforcement data for Pretreatment program cities and industries in non-Pretreatment cities. Most pretreatment activities conducted by the state have Water Enforcement National Data Base (WENDB) elements that EPA expects the state to enter into PCS. These include findings from state audits and PCIs. IDNR is also expected to enter WENDB elements associated with the content of annual reports received from the state's approved Pretreatment Program cities. EPA found that IDNR has not consistently entered the WENDB elements in PCS and recommends that IDNR begin doing so.

## APPENDIX F

### File Review Summaries for Facilities

This appendix to the report includes a summary of findings for each of the forty-nine facility files reviewed by EPA. Each summary discusses the following: 1) the state's compliance monitoring and/or enforcement activities at the facility that were the reason for the review; 2) the documents in the file that EPA reviewed; and 3) EPA's findings from the review. The summaries are organized by NPDES permit type. The summaries in the final section of the appendix—Section 4—describe facilities that were reviewed for potential concerns associated with particular metrics. Nine of the facilities in Section 4 are also discussed elsewhere in this appendix.

#### 1. Wastewater Permittees

##### *Direct Dischargers—Majors*

##### Creston STP (IA0035238)

This facility was inspected by IDNR on 10/23/07 and was issued NOV's on 1/30/08 and 8/1/08. EPA reviewed all three of these actions. According to the OTIS facility report, the 1/30/08 NOV had not been entered into PCS as required. Conversely, the OTIS facility report listed a state NOV dated 11/1/07, which EPA was unable to locate in the file. This is most likely a case of inaccurate NOV date.

IDNR issued a report for the 10/23/07 non-sampling inspection on 11/26/07, leaving a turn-around time of 34 days. The report included all of the items on the EPA CWA Inspection Report Evaluation Guide except time of day of inspection. Report language provided sufficient information to enable a subsequent compliance determination, noting past effluent exceedances and citing inflow and infiltration (I&I) problems that have led to sewer backups in a small area of the city. The inspector remarked on the high enforcement priority given to bypasses and SSOs and stated that "Responsible city officials must make every effort to eliminate SSOs and bypassing by eliminating sources of inflow and infiltration and increasing sewer capacity where necessary." The report did not, however, provide any details on the nature or extent of any specific SSOs or bypasses that might have occurred in the recent past. IDNR's tracking of bypasses reported by the facility likewise did not list any bypasses in FFY 2007 or 2008 that would clearly pass the federal threshold for SNC. Given this information, EPA can conclude that an accurate compliance determination was made. The state's reiteration of the city's responsibility to address I&I, accompanied by a statement in the report of specific actions being

taken by the facility to address overflow problems, suggests that IDNR is cognizant the city's handling of its wet weather problems. Note that IDNR has targeted Creston as one of the state's high-priority SSO/bypassing communities.

IDNR issued an NOV to Creston on 1/30/08 to address Carbonaceous Biological Oxygen Demand (CBOD) exceedances. The state rescinded part of the NOV with a letter dated 2/20/08, citing a data reporting error by Creston that had been discovered since issuance of the NOV. The second NOV, dated 8/1/08, was issued to address exceedances of flow limits in May and June 2008. This NOV followed receipt of the DMR within approximately two weeks. IDNR appropriately warned the city that I&I is the likely cause of its exceedance of design inflow to the plant and that SSOs are an enforcement priority for the state. One non-monthly flow exceedance of 7% occurred during the nine quarters prior to the subject violation, and the OTIS facility report shows only one additional such exceedance since then, at 2% of the non-monthly limit. Without evidence of ongoing SNC violations, these enforcement actions appear appropriate to the violations.

#### Humboldt STP (IA0047791)

IDNR conducted a non-sampling compliance evaluation inspection at this facility on 9/10/08, during which EPA conducted an oversight inspection. This was the only compliance monitoring or enforcement activity in FFY 2008. IDNR transmitted its inspection report seven days later, on 9/17/08. The report lacked only time of day of inspection and provided sufficient information to enable a subsequent compliance determination. The report and transmittal letter articulated the determination that the city must submit a report to IDNR within 45 days regarding actions taken to address the deficiencies. The report also acknowledged the facility's reporting of SSOs and bypasses on its DMRs.

Although IDNR made a compliance determination for this facility, the determination was not entirely accurate. The report stated that there were "no violations of the CBOD, TSS, ammonia nitrogen, toxicity, and pH permit limitations" for the period from the state's prior inspection in July 2007 through July 2008. However, as noted for Humboldt in Section 4 below, under metric 7d, the facility had effluent violations across four months during that period.

#### North Liberty STP (IA0032905)

IDNR conducted a sampling inspection on 3/31/08 at this facility and non-sampling inspections on 5/15/08 and 8/5/08, none of which were followed by any type of state enforcement. The latter two inspections appear in PCS, but the 3/31/08 inspection is not in PCS. EPA reviewed all three state inspections.

None of the three inspections were complete according to EPA's CWA Inspection Report Evaluation Guide. The May inspection report included sufficient information to enable a

compliance determination and stated that the city's failure to report basement back-ups was a violation of IDNR policy. The March inspection report presented the analytical results from IDNR's samples, but the report did not list or otherwise mention permit effluent limits or make the comparison between sampling results and permit limits, which is necessary to inform a compliance determination. The August inspection report consisted of a one-page "visit memo" with minimal narrative to characterize what happened during the visit. Nothing that EPA identified in the inspection reports or the files for the March and August inspections indicated that a determination of compliance had been made for the facility. In addition, the state coded the August inspection in PCS as a non-sampling compliance evaluation, which is an inappropriate classification for an inspection that led to a report with so few details. An alternative code in PCS would probably more accurately capture the nature of and reason for the August inspection.

As part of IDNR's work with North Liberty to reduce bypasses and SSOs, the city submitted a plan of action to the state on 4/2/08 for reporting bypasses and SSOs. IDNR responded favorably to the plan in writing on 4/17/08. Note that North Liberty reported several SSOs and bypasses to IDNR during FFY 2008, which IDNR recorded on its "Wastewater Bypass Report."

#### Sioux City STP (IA0043095)

This facility received three NOV's from IDNR in FFY 2008, but the state did not conduct any wastewater inspections at the facility during the period. EPA reviewed all three NOV's, dated 11/6/07, 1/15/08, and 8/20/08. The November and August NOV's have been entered into PCS and appear on the OTIS facility report, whereas the January NOV does not appear on the facility report.

IDNR issued the November NOV for failure to submit a DMR for September 2007, which constituted SNC. It was sent approximately 3 weeks following the due date for the September DMR, which is an acceptable lag time. The NOV requires the facility to immediately submit the missing DMR within 15 days. The facility met this obligation. The January NOV was issued within a timely 10 days of receiving a complaint regarding sludge land application violations. The NOV required written actions or plans for action within 15 days to address the violations. The city responded on 1/21/08 with written corrections to its application practices. The August NOV pertained to a 160% exceedance of the facility's daily maximum limit for fecal coliform in April 2008. The state issued this NOV approximately 100 days following the appearance of the violation on the facility's April DMR, which does not constitute a timely response according to EPA or state guidance. The NOV required a written response from the facility within 15 days. On 8/29/08, the facility responded with an explanation of how the treatment process was modified to prevent future violations of this parameter. All three of these

NOVs were appropriate to address the instances of noncompliance, as they all resulted in measures by the facility to correct the deficiency or prevent future recurrences of the violation.

#### Winterset STP (IA0034291)

Winterset was the subject of an administrative consent order (ACO) from IDNR dated 2/1/08. Although the state used informal enforcement prior to FFY 2008 to address the same noncompliance, as discussed below, EPA reviewed only the ACO and considered the earlier enforcement only from the perspective of timeliness and appropriateness of the overall enforcement sequence. The ACO was not in PCS as required. IDNR did not conduct any inspections at Winterset in FFY 2008.

The violation that led to enforcement was failure to submit a permit renewal application by 5/11/07. Approximately one month later, on 6/15/07, IDNR sent the facility an NOV requiring submission of a complete application as soon as possible. By 7/30/07, IDNR Field Office 5 still had not received an application and proceeded to refer the facility to LSB. For corrective action, the referral recommended submittal of a complete application within 30 days and submittal of a plan for—and subsequent elimination of—any discharge prior to expiration of the current permit. This was a timely enforcement referral, taking place approximately one month following the requested date of compliance with the NOV.

IDNR signed its ACO six months after execution of its referral, which was consistent with the state's EMS guidance. The order requires the city to timely submit future permit renewal applications and to pay a penalty of \$4000 within 30 days of signature. IDNR sent the city a draft consent order for signature on 10/29/07. The city responded with a complete renewal application on 11/16/07. The state executed an appropriate course of enforcement action that brought the facility into compliance.

IDNR's initial penalty calculation, as presented in the draft consent order sent to the city on 7/30/07, included amounts and justifications for economic benefit, gravity, and culpability. The file did not document how or why IDNR increased the initial penalty from \$3000 to a final penalty of \$4000. A signed and dated check was included in the file.

#### *Direct Dischargers—Non-majors*

#### Beacon STP (IA0035424)

This minor municipal file was selected as a representative inspection. A sampling inspection was performed on 2/27/08. The inspection report was transmitted to the facility on 3/28/08, 30 days after the inspection. The inspection report was complete except the time the inspection occurred was not recorded, nor was the facility phone number. The IDNR Wastewater Treatment Lagoon Inspection checklist was used. The facility exceeded CBOD 10



months prior to the inspection and had been in compliance with its effluent limitations since. The facility was found to be in compliance. A statement in the inspection report encourages the facility to review the inspection report and implement any recommendations made in the report.

#### Bridgewater (SIRWA) (IA0062006)

This file was selected as a representative facility that was subject to informal enforcement during the FFY 2008 review period. The specific enforcement action was a NOV that was issued by IDNR on 5/12/08. EPA's review of the file identified one inspection that was associated with the NOV. The inspections occurred on 3/28/08. For the purposes of this program review, EPA evaluated both the inspection and the enforcement action.

This inspection was classified as a compliance evaluation inspection. The report did not contain all components on EPA's CWA Inspection Report Evaluation Guide; however, the omissions were minor (i.e., time, phone number, etc.). Information was present in the report that would allow one to make a compliance determination. Violations were documented and a NOV was issued. It took 45 days to complete the report which exceeded the 30-day and 10-day timeframes used by EPA and the state. The report was transmitted to the facility on the same day the report was completed.

As mentioned above, IDNR issued a NOV for violations discovered during the inspection. The action was both timely and appropriate. The NOV was issued 45 days after the inspection. The violations were corrected the day of the inspection, but the NOV was still the appropriate action to provide notice to the facility. No other enforcement actions were in the file.

#### Clinton County Bio Energy, LLC

This facility was selected as a representative enforcement action for non-major direct dischargers, although it was determined during the on-site review that the Administrative Consent Order (ACO) concerned stormwater violations. INDR entered into an ACO with Clinton on 5/16/2008. On 2/22/2007, IDNR received a complaint alleging that storm water from Clinton was discharging onto complainant's property. A subsequent site investigation by IDNR, on 6/4/07, revealed that Clinton was pumping liquid from its above-ground storage tank containment area onto the ground because of heavy rain. After obtaining sampling results, IDNR issued an NOV on 6/28/07 citing Clinton for the illegal discharge of wastewater and for failure to have an appropriate Pollution Prevention Plan (PPP) at the Site. On 6/19/07, IDNR received a PPP from Clinton. However, it was determined that the purportedly updated PPP was in fact a PPP for construction activities as required by Storm Water Permit No. 2, rather than for operation of the facility as required by Clinton's current permit, Storm Water General Permit No. 1. On 7/19/07, IDNR notified Clinton that a PPP for operation of the facility was required and directed Clinton to submit the required PPP by 9/1/07. Clinton failed to comply with IDNR's

request. The negotiated ACO requires Clinton to submit an updated PPP as required by its General Storm Water Permit and requires Clinton to pay a \$7,000 penalty.

IDNR's site investigation report contained all of the components on EPA's CWA Inspection Report Evaluation Guide. As described above, the subsequent NOV was timely and appropriate, as was issuance of the ACO.

#### Earling STP (IA0025364)

There were no inspections conducted at this facility during FFY 2008. The state issued an NOV to the facility on 5/2/08 for exceedance of CBOD. The NOV was an appropriate response to the non-SNC violation. It was issued 48 days following the approximate date of discovery of the violation, which exceeds the 7-day timeliness threshold in the state EMS. This facility also had compliance schedule violations, which are discussed in Section 4 for metric 7c.

#### Edwards Cast Stone Company (IA0076821)

Just prior to issuing this facility's permit on 8/15/08, the state conducted one inspection on 8/11/08, which was in the file and recorded in PCS. The inspection report was completed on 8/29/08, which was within the 10-day EPA timeframe but not the state's 10-day timeframe. The inspection report described a process water issue.

An NOV was issued by the state on 8/29/08 for discharging equipment wash water and acid rinse water (process water) without a permit. The facility's existing permit needed to be amended to allow this activity. The state is working on an amendment that will allow this discharge. The NOV was an appropriate response for the violation.

#### Eldora STP (IA0025933)

IDNR conducted a wastewater treatment facility inspection at the Eldora STP on 3/18/08. This was the only state activity at this facility in FFY 2008, and EPA reviewed the inspection report dated 4/1/08.

The inspection report did not include the time of inspection or the facility phone number but was otherwise complete according to EPA's CWA Inspection Report Evaluation Guide. The report was completed and transmitted within 14 days following the inspection. The report provided sufficient information to enable a compliance determination and led to a determination, as recorded in the transmittal letter. The Field Office Supervisor reiterated that a required action and one recommendation needed the facility's attention. However, the required action is characterized generically in the report as a need to "continue to comply with the permit requirements," and nowhere does the report articulate any specific deficiencies to support this statement or to infer noncompliance.

Refer to Section 4, metric 7c, for a discussion of the state's tracking of compliance

schedule milestones at this facility.

Fort Dodge Animal Health (IA0071366)

There was one Compliance Evaluation Inspection (CEI) conducted during FFY 2008, which took place on 3/19/08. This inspection was in the file and is in PCS. The report did not provide enough information to enable a compliance determination, as there were no violations noted in the inspection. An assumption can be made that since the state took no action and no violations appear in OTIS, the facility was in compliance. However, the reader should not be expected to make this assumption. The inspection report was completed in a timely six days.

Homestead Colony Mobile Home Park (IA0067806)

The state conducted inspections at this facility on the following dates in FFY 2008: 10/3/07, 10/16/07, 11/1/07, and 9/11/08. The last of these inspections was not in PCS. Reports for the first three of them were incorporated into a letter sent to the facility 11/15/07. The reports provided the reason for the inspection which was to observe status of improvements. Dates of inspection to the date the transmittal letter was sent are broken out as follows:

<u>Inspection</u>	<u>Report</u>	<u>No. of Days</u>
10/03/2007	11/15/2007	43
10/16/2007	11/15/2007	30
11/01/2007	11/15/2007	14

The 11/15/07 letter also incorporated a NOV. The facility returned to compliance based on the reported improvements made to the facility, and exceedances have subsided.

Lester STP (IA0026620)

This file was selected as a representative facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 7/24/08 and was the only inspection reviewed. This inspection was classified as a compliance evaluation inspection. The report did not contain all components on EPA's CWA Inspection Report Evaluation Guide; however, the omissions were minor (i.e., time, phone number, etc.). Information was present in the report that would allow one to make a compliance determination. No violations were identified during this inspection. The state took 26 days to complete the report which is within EPA's 30-day timeframe but outside the state's 10-day objective. The report was transmitted to the facility 28 days following inspection.

Ocheyedan STP (IA0035068)

This facility was the subject of an administrative consent order (ACO) signed 4/25/08 and at least four related NOV's prior to and during FFY 2008. The NOV's were issued 2/28/06, 5/8/06, 5/16/07, and 5/15/08. IDNR also conducted an inspection at the facility on 5/29/07. EPA reviewed the ACO and the 5/15/08 NOV against the SRF metrics and also considered the other NOV's within the sequence of enforcement activity that ultimately led to issuance of the ACO.

Beginning in the third quarter of FFY 2006 and continuing for every quarter through all of FFY 2008, influent flow at the Ocheyedon STP exceeded the hydraulic design capacity of the facility's lagoon by at least 100% of the permitted limit. This also resulted in monthly and non-monthly exceedances of limits for Total Suspended Solids (TSS) during February and March of 2007 and CBOD during February and March of 2008. IDNR recognized the cause of noncompliance in its NOV of 2/28/06, which required the facility to retain the services of a consulting engineer to evaluate alternatives for improving the city's STP and collection system and to develop a facility plan for the city. The city responded accordingly, but due to an unreliable flow measurement mechanism the city's engineer requested and was granted additional time to collect flow data that would properly inform a facility plan.

IDNR continued to work with the city to correct its overloading problem. As demonstrated by the hiring of consulting engineers, the city committed resources to taking the necessary corrective actions. After a generous grace period for the city to collect improved flow data, IDNR's Environmental Services Division ultimately referred the city to LSB, which resulted in a timely settling of the ACO on 4/25/08. The ACO included an enforceable schedule for completing flow monitoring, submitting a facility plan, beginning and completing construction of facility improvements, and achieving compliance with final effluent limits. The ACO also included stipulated penalties for missed milestones. Although the duration from discovery of the violation to issuance of the order exceeded the state's EMS guidance, the state made an allowance for extenuating circumstances surrounding collection of flow data.

The state's NOV to the city dated 5/15/08 followed receipt of the DMR that revealed violations by approximately one month. The NOV required the city to submit a written statement of actions to prevent further violations of CBOD. This NOV was a timely and appropriate action, considering also that the state had settled its ACO with the facility less than one month earlier to address long-term deficiencies that would ultimately correct the violations cited in the NOV.

IDNR's NOV's dated 2/28/06 and 5/15/08 do not appear in OTIS. Also, the compliance schedule established in the ACO had been entered in PCS and appears in OTIS, but IDNR has not entered submission dates for deliverables that were received from the city.

This facility was selected as a representative enforcement action for non-major direct dischargers, although it was determined during the on-site review that the Administrative Consent Order (ACO) concerned stormwater violations. Outback does not have an individual NPDES permit, but it might have a General Permit that is not required to be reflected in PCS. No compliance monitoring activities for this facility were found in the state's files.

The following enforcement chronology was obtained from the state's enforcement action file. On 9/26/07 an initial on-site investigation was made in response to an 8/8/07 complaint from the Black Hawk County Health Department. During the investigation, it was observed and documented there was a cross connection with the water plumbing. It was also observed there was a violation of the National Pollutant Discharge Elimination System (NPDES) permitting requirements pertaining to the disturbance of over one acre of ground. On 9/28/07, an NOV was sent to the campground's owner in response to deficiencies identified during the 9/26/07 investigation. The owner was informed he needed to address the cross connection issues immediately and correct the other violations no later than 11/1/07.

On 12/14/07, IDNR investigated the site again. During the investigation, it was determined that the cross connection issue had been corrected but that the NPDES permitting issues remained unresolved. The state sent a second NOV on 12/18/07 for failing to apply for a NPDES permit. On 4/17/08, IDNR returned to Outback for a follow-up inspection and determined that Outback had completed all of the requirements in the previous NOV letters. This was 202 days from the initial on-site investigation conducted on September 26, 2007.

An ACO was issued on 8/26/08 for storm water discharge permit requirements, improper solid waste disposal and improper open burning. Considering that operation with a permit is a high priority to the state's stormwater program, this was an appropriate course of action. The order assessed a \$1,000 penalty, but there was nothing in the file indicating whether the penalty had been paid. IDNR asserts that confirmation of penalty payment was received, but neither IDNR nor EPA could find it in the file at the time of review.

IDNR issued the first NOV two days after the initial site investigation, which was a timely response. The second NOV followed the first by 81 days, which is within the state's 90-day compliance review period following issuance of an initial NOV. The ACO was issued 330 days from the initial on-site investigation conducted on 9/26/07, which is timely according to the state EMS manual. The ACO confirms that the facility had returned to compliance.

#### Walcott STP (South) (IA0061891)

This file was selected as a representative facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 2/25/08 and was the only inspection reviewed. This inspection was classified as a compliance evaluation inspection. The actual "inspection report" consisted of a memorandum to the facility file. The report contained

few of the components on EPA's CWA Inspection Report Evaluation Guide. The memo summarized a discussion between the inspector and the plant operator. It also included one observation related to the clarifiers and the results from a review of effluent data. EPA recommends that INDR prepare a more traditional inspection report for this type of "follow-up" visit to insure that all findings are properly documented. IDNR should classify this type of inspection as something other than a 'compliance evaluation (non-sampling)' inspection. The state took one day to complete the memo, which is considered timely. The memo was not transmitted to the facility.

### *Pretreatment Facilities*

#### Dexter Laundry (Fairfield, Iowa)

This facility was chosen as a representative facility subject to a state enforcement action taken to address discharges from Dexter Laundry that were in violation of federal Categorical standards and Treatment Agreement limits in the Fairfield NPDES permit. While the violations occurred between October 2003 and July 2005, the enforcement actions were not completed until May 2008, which is within the period of interest for the FY 2008 Program Review.

Dexter is a manufacturer of commercial washing machines and dryers which performs zinc phosphating and chromate conversion coating during their manufacture. Zinc phosphating and chromate conversion coating are regulated processes under the 40 C.F.R. Part 433 Metal Finishing standards. These standards have been incorporated into the City of Fairfield's NPDES permit in the form of Treatment Agreement limits for Dexter.

In the six-month reporting period ending December 2004, Dexter was found to be in significant noncompliance (SNC). They remained in SNC for the six-month reporting period ending June 2005. On 9/20/05, IDNR performed an inspection of Dexter and determined that their noncompliance was continuing and that the treatment system was not adequate for the waste stream that Dexter was generating. On 10/31/05, IDNR issued its inspection report for Dexter which included an NOV requiring them to submit a plan of action describing how they would return to compliance. Dexter submitted its plan of action on 11/16/05.

Contained in the NOV of 10/31/05 was the statement that the field office would be referring Dexter to LSB in Des Moines because previous attempts by Dexter to eliminate effluent violations over the previous five years had been ineffective. LSB drafted an ACO and sent it to Dexter on 5/26/06 for their review and comment. The draft order proposed a penalty of \$10,000.

Dexter requested and received a meeting with IDNR to discuss the consent order on 9/20/06. Shortly following the meeting, written comments were submitted to IDNR. This led to a redraft of the ACO which was submitted to Dexter on 2/16/07. By this time, Dexter had returned to full compliance with its Treatment Agreement limits and Categorical Pretreatment

standards.

The ACO was signed 4/7/08, which was 928 days following discovery of the violations during the September 2005 inspection. Accounting for redrafting of the order that occurred during the negotiation process, the amount of time taken for the second round of negotiation was 416 days. This exceeds the timeframes established in the state EMS manual. The original \$10,000 penalty was broken up into a \$2,500 cash penalty and a \$7,500 supplemental environmental project (SEP). The SEP performed by Dexter was changing their conversion coating system so that they no longer used zinc and chromate solutions. The \$2,500 cash penalty was paid to the State's General Fund on 4/25/08.

#### Polaris Industries (Spirit Lake, Iowa)

This file was selected because an inspection of the facility was conducted by IDNR in FFY 2008.

Polaris Industries manufactures motorcycles and all-terrain vehicles. As part of the manufacturing process, Polaris performs conversion coating making it subject to the Metal Finishing Categorical standard. On 1/9/08, IDNR inspected Polaris. The report of the inspection was submitted to Polaris 14 days later on 1/25/08. The report consisted of IDNR's standard one-page checklist and a quarter page of narrative findings.

The inspection report makes informative statements but omits many important details. For instance, there is no discussion of what pollutants are generated and at what rate. While the report states that all tests show Polaris in compliance with discharge limits, it is not clear if this includes compliance with sampling methods and reporting time lines. It is not evident from the report whether the industry is self-monitoring or if the city performs all or some of the sampling. There is no discussion of who performs the analysis (city, contract lab, or industry) or how frequently samples are taken. To get a more complete picture of the Polaris facility, one would need both a copy of the city's permit containing the treatment agreement and a print-out of the number of samples taken at Polaris and their reported values.

#### Memengers Metal Finishing (Eldridge, Iowa)

The Memengers file was selected for an IDNR inspection conducted 1/7/08. The report, along with a notice of violation, was transmitted to the industry on 1/17/08 (10 days later). Grab samples were taken of the industry's effluent during the inspection and all Categorical effluent limits were met. However, the upper pH result was outside the range permitted by the Treatment Agreement with the City of Eldridge (9.3 s.u. vs. a limit of 9.0 s.u.).

The inspection report consisted of the standard one-page IDNR checklist followed by an

extensive two-page narrative description of the inspection and the industry's recent performance. Also contained in the report is a table presenting the test results from the sample taken during the inspection. In support of this table, lab sheets from the University of Iowa Hygienic Laboratory were attached.

Overall, the inspection report is comprehensive and well written. The facility's regulated process is discussed in detail as is their pretreatment system. From this, one can determine that the industry has the necessary equipment to maintain compliance with the Categorical standards and that no dilution flows are present. Because Memengers uses hexavalent chrome in its metal finishing process, it must be converted to trivalent so that it can be removed from the wastestream. This treatment process is discussed in great detail.

The industry's historical performance is discussed with respect to both its discharge limits and its reporting requirements. Sufficient detail is provided so that an independent review of the report is able to determine Memengers' compliance with all requirements.

#### Allan Industrial Coatings (AIC) (Allison, Iowa)

This file was selected for review because it was the subject of a state inspection conducted in FFY 2008 on 5/16/08. The report was transmitted to the industry six days later on 5/22/08. No violations were found during the inspection, eliminating the need for a notice of violation.

The inspection report consisted of the standard IDNR one-page checklist and more than a page of narrative discussion. Though no violations were found, the report concludes with requirements that AIC must address. No samples were taken during the inspection; however, the historic record for the year of April 2007 to March 2008 was reviewed and complete compliance was noted. A print out of sample results for that time period was attached to the report.

The report provided a detailed description of the manufacturing process and the generation of wastewater, with a description of its collection and discharge. However, there was little discussion of the industry's monitoring and reporting procedures. The report stated that pretreatment is available (as pH adjustment) if needed, but it did not elaborate on how the industry measures pH to determine if and when pretreatment would be required.

The report noted that the facility had changed ownership in February 2007 and that a new Treatment Agreement would be required to reflect this change. The letter of transmittal required the industry to submit a new Treatment Agreement application by 6/23/08. The application was submitted on 6/18/08.

## **2. Concentrated Animal Feeding Operations**



### Brian Hofmeyer

This file was selected as a representative facility that received an enforcement action during the FFY 2008 review period. The specific enforcement action was an ACO issued by IDNR on 6/30/08. EPA's review of the file identified one inspection that was associated with the ACO. It occurred on 8/6/07 and was included in the file review.

The 8/6/07 inspection report was a fish kill investigation. IDNR was investigating a fish kill that had occurred near the Hofmeyer facility. As an investigation of this nature, the report did not contain all components on EPA's CWA Inspection Report Evaluation Guide. The inspection report did identify violations and the inspector did make a compliance determination as a result. It took 50 days to complete the report, which exceeded the timeframes used by EPA and the state. The report was transmitted to the facility on the day the report was completed.

Based on the violations documented in the investigation listed above, IDNR's field office referred this facility to LSB for enforcement action. IDNR filed an ACO on 6/30/08. Issuance of this ACO was appropriate for the type of violations identified and resulted in the facility complying with CWA requirements and paying a penalty of \$6,750.00 and fish restitution of \$9,336.00. EPA's review of the file indicates that it took approximately 261 days from referral to issuance of the order, which is within INDR's established timeframes.

### Couser Cattle Company (IA0079561)

This file was selected as a representative facility that received an enforcement action during the FFY 2008 review period. The specific enforcement action was an ACO issued by IDNR on 9/8/08. EPA's review of the file identified one inspection that was associated with the ACO that was completed on 8/2/06. For the purposes of this program review, EPA evaluated both the inspection report and the enforcement action.

At the time of the 8/2/06 inspection, Couser Cattle Company was operating under a conditional NPDES permit (Alternative Technologies). The purpose of the inspection was to "observe the alternative technology system and review monitoring/reporting requirements." The report did not contain all components on EPA's CWA Inspection Report Evaluation Guide. There was no documentation in the report that supported observations made in the report. Specifically, the inspector stated in the report that the facility was not keeping appropriate records nor was it performing all required inspections. When an inspector identifies an actual or potential violation he or she should gather and include all appropriate documentation/observations that support the allegations in the report. The state took a timely eight days to complete the inspection report, which was transmitted to the facility 13 days after the investigation.

IDNR's field office referred this facility to LSB for formal enforcement. The referral was primarily based on violations documented outside of the above inspection; however, the

violations identified during the inspection were included in the referral package. IDNR filed an ACO on 9/8/08. Issuance of this ACO was appropriate for the type of violations identified and resulted in the facility complying with CWA requirements. Penalties associated with this ACO were stipulated and assessed \$100 to \$300 per day for violations of the permit that occurred after the ACO was issued. EPA's review of the file indicates that the state took approximately 94 days from referral to issuance of the ACO, although 672 days elapsed from discovery of the violation to the date of referral. The complexity of dealing with this facility's conditional permit made this an unusual case for the state, leading to exceedance of the state's timeframe for formal enforcement.

#### J.W. Fruend Farms (IA0078476)

This file was selected as a representative facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 9/26/08 and was the only inspection reviewed. This inspection was a non-sampling CAFO inspection that included the Open Feedlot NPDES Compliance Checklist and the NMP Compliance Review Checklist. The report did not contain all components on EPA's CWA Inspection Report Evaluation Guide. There was no documentation in the report that supported observations made in the report. Specifically, the inspector stated in the report that the facility was not controlling runoff from feedstock storage areas, nor was it conducting weekly staff gauge readings. When an inspector identifies an actual or potential violation, he or she should gather and include all appropriate documentation and observations that support the allegations in the report. The report also presents conflicting statements related to monitoring requirements. As mentioned above, the inspector noted the facility's failure to monitor its staff gauge; however, under the *Permit Compliance Summary* portion of the report, the "Depth Gauge Installed & Monitoring" section was marked satisfactory. These two statements contradict each other and should be corrected or clarified so that they accurately characterize what was observed during the inspection. The number of days it took to complete the inspection report was a timely 20 days. The report was transmitted to the facility in a timely manner as well.

#### Ken Wulf & Sons (IA0080373)

This file was selected as a replacement for Holstein Dairy. It is a facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 5/30/08 and was the only inspection reviewed. This inspection was a site visit related to re-issuance of the facility's NPDES permit and was evaluating the performance of the treatment system. The report consisted of a letter to the facility summarizing IDNR's findings. Except for a general statement indicating that "all required records, reports, and monitoring results had been submitted," there was no other compliance information in the letter. It was not possible to make

a compliance determination based on information provided in the letter. PCS has this inspection classified as a Compliance Evaluation Inspection (Non-Sampling); however, it does not appear as though this is the proper inspection code. If IDNR considers this type of inspection to be a true compliance evaluation inspection, then a much more comprehensive review should be presented in the inspections report. EPA considered the date the letter was transmitted as the date on which the inspection report was completed. It took IDNR five days to complete and transmit the report, which represents a timely turnaround.

#### Performance Beef (IA0077704)

This file was selected as a representative facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 9/26/08 and was the only inspection reviewed. This inspection was a non-sampling CAFO inspection that included the Open Feedlot NPDES Compliance Checklist and the NMP Compliance Review Checklist. The report did not contain all components on EPA's CWA Inspection Report Evaluation Guide. There was little if any documentation in the report that supported the inspector's observations. Specifically, the report indicated that land application equipment was not being inspected as required by their NPDES permit; however, there was no information in the report that identified what type of equipment was being used and the period of time during which the facility failed to perform the inspections. When an inspector identifies an actual or potential violation he or she should gather and include all appropriate documentation and observations that support the allegations in the report. The amount of time it took to complete the inspection report was a timely four days. The report was transmitted to the facility in a timely manner as well.

#### Rick Bengsten Feedlot

This file was selected as a replacement for Onken Feedlot. It is a facility that received both inspections and enforcement actions during the FFY 2008 review period. EPA's review of the file indicated that there is extensive history of compliance and enforcement activity at this site. There were two NOV's issued during FFY 2008 and there were three inspections that were associated with them. IDNR ultimately referred this facility to Legal Services for formal enforcement in FFY 2009.

EPA reviewed inspections that occurred on 9/29/06, 6/14/07, 4/9/08 and 8/28/08. The 9/29/06 inspection was a complaint investigation. IDNR was investigating allegations of a discharge from the facility. As a result, the report did not contain all components on EPA's CWA Inspection Report Evaluation Guide. The inspection report did identify violations and the inspector did make a compliance determination as a result. It took 22 days to completed and transmit the report to the facility, which is within the 30 day timeframe used by EPA but outside the 10-day timeframe used by the state.

The 6/14/07 inspection appeared to be a “follow-up” inspection performed by IDNR. EPA did not find an inspection report associated with this inspection. The only mention of it was in a NOV that was issued on 6/21/07. EPA recommends that INDR prepare an inspection report for this type of “follow-up” visit to insure that all findings are properly documented.

The 4/9/08 inspection was a complaint investigation. IDNR was investigating allegations of a discharge from the facility. As a result, the report did not contain all components on EPA’s CWA Inspection Report Evaluation Guide. The inspection report did identify violations and the inspector did make a compliance determination as a result. The inspection report was not transmitted to the facility; however, a NOV summarizing IDNR findings was issued on 4/25/08.

The 8/28/08 inspection appeared to also be a “follow-up” inspection performed by IDNR. EPA did not find an inspection report associated with this inspection. The only mention of it was in a NOV that was issued on 9/12/08. EPA recommends that INDR prepare an inspection report for this type of “follow-up” visit to insure that all findings are properly documented.

As mentioned above, EPA reviewed two NOVs issued by IDNR. Both were issued timely and included injunctive relief to bring the facility back into compliance. IDNR’s initial use of informal enforcement to address noncompliance was appropriate. Rick Bengsten Feedlot was a medium-sized facility. In most cases, states and EPA work with medium sized facilities to correct violations before pursuing formal enforcement. When it was apparent that the facility was not responding to the NOVs, INDR elevated the matter to formal enforcement. At the time of EPA’s review, IDNR had not yet issued an administrative order in this case.

### Schomers Cattle LLC

This file was selected as a representative facility that received an enforcement action during the FFY 2008 review period. The specific enforcement action was an ACO issued by IDNR on 12/10/07. EPA’s review of the file identified two separate inspections that were associated with the ACO. The inspections occurred on 4/17/06 and 4/24/07. For the purposes of this program review, EPA evaluated both inspections and the enforcement action.

The 4/17/06 inspection report was a focused inspection that only looked at compliance associated with the “Iowa Plan” and was not a compliance evaluation inspection. As a result, the report did not contain all components on EPA’s CWA Inspection Report Evaluation Guide. The inspection report did identify violations and the inspector did make a compliance determination as a result. The reviewer was unable to determine the date on which the report was completed. There was also no documentation in the file indicating this report was transmitted to the facility.

The 4/24/07 inspection report was a complaint investigation. IDNR investigated allegations of a discharge from the facility. As a result, the report did not contain all components on EPA’s CWA Inspection Report Evaluation Guide. The inspection report did identify violations and the inspector did make a compliance determination as a result. The number of

days it took to complete the inspection report was 59 days, which exceeded the timeframes used by both EPA and the state. The report was transmitted to the facility 79 days after the investigation.

Based on the violations documented in the inspections listed above, IDNR's field office referred this facility to LSB for enforcement action. IDNR filed an ACO on 12/10/07. Issuance of this ACO was appropriate for the type of violations identified and resulted in the facility complying with CWA requirements as well as paying a \$10,000.00 penalty. To evaluate the timeliness of the enforcement action, EPA looked at enforcement timeframes established in IDNR's EMS. The EMS establishes 270 days between submittal of an enforcement referral package and filing of the ACO. EPA's review of the file indicates that it took approximately 466 days, well beyond IDNR's established timeframes.

#### Ysselstein Dairy (IA0077852)

This file was selected as a representative facility that received an inspection during the FFY 2008 review period. The specific inspection occurred on 9/26/08 and was the only inspection reviewed. This inspection was a non-sampling CAFO inspection that included the Open Feedlot NPDES Compliance Checklist and the NMP Compliance Review Checklist. The *Permit Compliance Summary* has portions marked with both Satisfactory and Unsatisfactory. Specifically, the inspector marked "Land Application Records" with both. There were also numerous items on the NMP Checklist that were marked both Yes and No. Subsequent reviewers will not be able to determine the compliance status of these areas. If one were to assume there were indeed recordkeeping violations, there was no documentation included with the report to substantiate these violations. The number of days it took to complete the inspection report was 38 days, which exceeded the timeframes used by EPA and the state. The report was transmitted to the facility in a timely manner.

#### Holstein Dairy

PCS has erroneously assigned Holstein Dairy to the NPDES permit number that is assigned to Ken Wulf & Sons Feedlot. As a result, this facility file was not reviewed and was replaced with Ken Wulf & Sons Feedlot.

#### Onken Feedlot

This facility file was not reviewed, because the inspection of interest was actually a joint inspection with EPA as the lead agency. This file was replaced with Rick Bengsten Feedlot.

### **3. Stormwater Permittees**

## *Industrial Non-construction*

### Anthony Herman, DBA Mighty Good Used Cars (IA-13024-12872)

This facility file was selected as a representative industrial stormwater enforcement file. Mighty Good Used Cars processes junk vehicles to be sold for scrap, including draining fluids and removing batteries. IDNR received complaints about the facility on 11/17/06 and 11/29/06, which resulted in an IDNR site inspection on 12/1/06. The facility was not permitted, and IDNR informed Anthony Herman that he needed General Permit #1 coverage which he received on 3/1/07 after paying back-fees in addition to the regular permit fee. IDNR then inspected the site on 3/5/07, 3/13/07, 3/14/07, and 3/15/07. The 3/5 visit focused on what should be included in the site map and SWPPP. The 3/13 visit was in response to a call to DNR from Iowa Department of Transportation. IDNR discovered contaminated stormwater being drained from the lot area through a hose and into the stormwater intake. A hose was hooked up again on 3/14. The visit on 3/15 was to check on clean-up efforts. On 4/25/07 an inspection report and NOV were sent to the facility. The inspection report and NOV covered all of the March 2007 site visits. The inspection report contained the findings of the inspections and the NOV states that the manner in which the facility was operated, particularly the hose channeling contaminated stormwater into the storm sewer intake, was in violation of the conditions of the permit. The inspection report covered the findings of the 3/5, 3/13, 3/14 and 3/15 visits. 41 days had elapsed since the 3/5 inspection. The inspection report was complete with minor exceptions; the report did not include the time of the site visits. The report does not cover corrective actions taken by the facility during the inspection; none may have been taken during the inspections.

The state referred this facility to LSB on 4/25/07. The referral packet contains a chronology of events, identification of alleged violation, and a penalty recommendation of \$6,000. The penalty write-up assigns \$1,000 to gravity, \$3,000 to culpability, and \$2,000 to mitigating factors. On 2/5/08 IDNR issued a unilateral administrative order to Anthony Herman. The order required that the site SWPPP be revised by 3/1/08, that the revised SWPPP be implemented by 4/1/08, and that a penalty in the amount of \$7,500 be paid or appealed by 3/5/08. Anthony Herman appealed the penalty amount. In a decision dated 10/6/08, an Administrative Law Judge (ALJ) reduced the penalty to \$3,000, apportioning \$1,000 to economic benefit, \$1,000 to gravity and \$1,000 to culpability. The respondent appealed the ALJ decision, which the Environmental Protection Commission heard on 4/21/09 and declined to revise or amend. At the time of writing this report, the penalty had not yet been paid because the time period for another appeal had not yet expired.

IDNR performed an inspection of the facility on 4/7/08. The report was complete with the exception of the time the inspection occurred. The inspection report indicated that the

facility was in compliance. An inspection report was transmitted on 4/9/08, two days after the inspection.

### K's Acres

This industrial stormwater file was selected as a representative inspection. IDNR received a complaint on 9/27/07. An inspection was performed on 10/4/07. There were several thousand old tires stored on site. On 10/17/07, 13 days following the inspection, the inspection report and NOV were transmitted to the facility. The inspection report was complete except the time of the inspection was not recorded and the facility/contact phone number was not provided. The inspection report relayed the findings of the inspection and the NOV stated that the facility did not have a General Permit # 1 and was required to submit a Notice of Intent (NOI) within 30 days of receipt. Furthermore, the NOV stated that a solid waste permit would be required if the facility did not come below 3,500 tires stored on site.

On 5/15/08 IDNR sent a NOV to the facility regarding a tire fire at the site. A NOI for GP # 1 had still not been submitted. This NOV followed the first by more than five months, which is outside the EMS manual's 90-day compliance turnaround time following an initial NOV. IDNR gave the facility until 6/1/08 to get a permit and remove tires in excess of 3,500 stored at the site. There are several receipts dated May 2008 which report the number of tires moved off site. A 7/16/08 memo in the file from Mr. Hawker of IDNR to other IDNR staff in water and solid waste describes an informal site visit he made to the site on 7/9/08 to verify progress. He notes several thousand tires had been removed from the site and that the facility had submitted a SWPPP and completed a NOI. Copies of the NOI and permit authorization were not in the file so a permit number is not available.

### Alter Metal Recycling (IA 0062-0041)

This industrial stormwater file was selected as a representative inspection. A memo to file dated 2/25/08 recounts IDNR's grab sampling event at the facility the previous week. The sampling event did not appear to be part of an inspection. Sampling results were received on 3/20/08. An inspection of the facility was conducted on 3/20/08. On 3/28/08 IDNR transmitted a detailed letter to the facility detailing the findings of the inspection and relayed IDNR's concern over the pollutant levels revealed by the sampling event. The letter did not contain the time of the inspection, the facility/contact phone number or the facility permit number. The report was sent in a timely manner. The letter requires Alter to institute additional controls to prevent migration of pollutants in stormwater, revise the site SWPPP, and present a Plan of Action (POA) describing the actions they propose to take by 4/24/08. IDNR received Alter's POA on 4/24/08, and replied on 5/6/08 that the POA as proposed should be adequate and must be implemented. The file contained facility sampling results from 7/7/08. IDNR sent a letter to

the facility on 11/26/08 stating that the agency is satisfied with Alter's response.

### *Municipal Separate Storm Sewer Systems*

#### The City of Altoona (IA-0078603)

This MS4 file was selected as a representative inspection. The City was inspected (audited) on 10/4/07. The inspection report was transmitted to the City on 10/31/07, 27 days after the inspection. The inspection report was very lengthy and although a checklist was not utilized, the format consisted of a detailed series of questions related to permit requirement that were filled in with narrative answers. The format used was well suited to the MS4 program. The inspection report was complete, except the time of the inspection and contact phone number were not included. A summary on the last page of the inspection report contained a list of items the City "must" and "should" do. IDNR did not take an enforcement action even though there was one "must" item regarding passage of an ordinance. Other than that the City was in compliance. IDNR did another inspection in January 2009 and the report indicates that the "must" item was addressed. The file also contained the 2007 annual report from the city.

#### University of Iowa (IA-0078182)

This MS4 file was selected as a representative inspection. The University was inspected (audited) on 9/24/08. The inspection report was transmitted to the University on 10/3/08, 9 days after the inspection. IDNR notes in the inspection report that the inspection focused on items that are active or have changed since the previous inspection in 2006. The inspection report from the 2006 inspection was not in the file. The inspection report was complete, except the time of the inspection and contact phone number were not included. The identity of the staff interviewed during the inspection was also not provided in the report. The narrative report identifies the records that were reviewed by IDNR during the inspection. The inspection report states that the University was found to be in compliance with the requirements of its permit.

### *Construction Stormwater*

#### Clinton Community Schools (IA-10311-10104)

This construction stormwater permittee was selected as a representative enforcement file. IDNR received complaints on 4/21/06 and 5/1/06 and inspected the site and transmitted an inspection report and NOV on 5/11/06. IDNR received a complaint on 3/23/07 and inspected the site on 3/28/07, 5/14/07, and 5/22/07. The findings of these inspections and a NOV were transmitted to the site on 7/13/07, 111 days from the 3/28/07 inspection. The NOV notified the permittee that the case was being referred to enforcement. The inspection report does not record



the time the inspections were completed, the location of the site, the telephone number of the site contact and the party(ies) present during the inspection. IDNR received a response from the developer on 7/27/07. On 8/27/07 Field Office 6 referred the site for enforcement. The referral contains a penalty calculation of \$3,000 that attributes \$1,000 to gravity, \$1,000 to culpability, and \$1,000 to mitigating/aggravating factors. Economic benefit is addressed with the statement that actual costs are difficult to determine and a cost was therefore not calculated. IDNR issued an ACO on 1/25/08 (2008-WW-01) that required the permittee to comply with the requirements of the permit and to pay a fine of \$3,000. There was no difference between the initial and final assessed penalties. A copy of a check in the amount of \$3,000 is in the legal file. Also included in the referral packet is a copy of the permittee's 7/27/07 response to the NOV. The response documents that the site returned to compliance.

#### Dial – Whispering Creek Estates (IA-12591-12379)

This construction stormwater file was selected as a representative enforcement file. IDNR received complaints on 3/31/07 and 4/3/07. An inspection was performed on 4/6/07, the findings of which were transmitted in a report on 4/23/07. IDNR received another complaint on 4/24/07 and inspected the site on 5/7/07. Samples were taken during this inspection and TSS levels were 520 mg/L and 11,000 mg/L. The site was referred for enforcement based on this inspection. IDNR received a complaint on 8/23/07 and inspected the site on 8/23/07. The findings of the inspection and a NOV were transmitted on 9/4/07, which EPA reviewed as part of the chain of events leading to enforcement. The inspection report was complete and was issued with the NOV 12 days after the inspection. An ACO was issued on 3/28/08 (2008-WW-06) that required the permittee to comply with the requirements of the permit and to pay a penalty in the amount of \$8,000. The order itself contained a general description of how the penalty was calculated, but no further details were found anywhere in the file. A memo to file, located in the central office legal file, stated that the final assessed was the same as the initial proposed penalty. A check from respondent in the amount of \$8,000 was also present in the legal file.

#### N-T Lands, LLC, Ohana Lakes, LLC (IA-5579-5424 and IA-8074-7879)

This construction stormwater file was selected as a representative enforcement file. The site was originally permitted in 2002 and upon reissuance of the permit in 2004 IDNR assigned a new permit number to the site. Prior to FY08, IDNR received four complaints about this site, performed 2 formal inspections and transmitted two inspection reports. One transmittal also contained a NOV. IDNR also performed 2 informal inspections of the site that were memorialized in informal memos to the file. The complaints occurred in 2005 and in addition to the complaints and inspections, the file also reveals an ongoing dialogue between IDNR and the site engineers in an effort to improve the site. In FFY 2008, IDNR inspected the site on 2/15/08,

4/16/08, 6/3/08, and 6/5/08. The findings of the 2/15/08 inspection and a NOV were transmitted to the facility on 3/5/08, 20 days after the inspection. The inspection report was complete except it did not contain the time the inspection occurred, the phone number of a site contact and the address of the site. IDNR received a complaint on 3/26/08 and inspected the site on 4/16/08. The findings of the 4/16/08 inspection and a NOV were transmitted to the facility on 5/2/08, 16 days after the inspection. The inspection report was complete except it did not contain the time the inspection occurred, the phone number of a site contact and a statement as to whether a site representative was present during the inspection. IDNR inspected the site again on 6/3 and 6/5/08. The findings of the 6/3 and 6/5/08 inspections and a NOV were transmitted to the facility on 6/20/08, 17 days after the inspection. The inspection report was complete except it did not contain the time the inspection occurred or the address and phone number for the site.

IDNR issued an ACO on 5/16/08. The order required the permittee to comply with the requirements of the permit and to pay a penalty in the amount of \$9,750. Language in the order described the cost categories that were avoided or delayed to derive the calculated economic benefit. The central office legal file included a printed page from the state database showing the amount and date of penalty payment. There was no difference between the initial and final penalty, although this became evident to EPA only after discussion with the state and without seeing any statement as such in the file. The 6/3 and 6/5/08 inspections post-date the order and reveal that the site was in noncompliance a month after the order was issued. There was no additional information in the file showing that the site returned to compliance with the specific items addressed by the order.

#### Howdy Hills Subdivision (IA-8523-8331)

This construction stormwater file was selected as a representative inspection. IDNR received a written complaint from a neighbor on 6/17/08. IDNR received another written complaint from a different neighbor on 6/18/08. A Complaint Record dated 6/23/08 was also in the file. IDNR inspected the site on 7/8/08. The inspection report and a NOV were transmitted to the facility on 7/18/08, 10 days after the inspection. The inspection report does not contain the time the inspection was performed nor does it contain the site contact phone number. The report and NOV did not contain detail. It is stated that BMPs were missing and inspections were not performed, but the type(s) and location(s) of missing BMPs were not revealed. The report and NOV state that site inspections were not performed but the dates of the missing inspection reports are not identified. Photos were not taken during the inspection. The NOV does not identify the regulation that was violated. The NOV did not require the permittee to provide a response to IDNR documenting actions taken to return the site to compliance. There is no documentation in the file post-dating the NOV, so EPA could not determine if the site returned to compliance.

#### Woodland Hills Subdivision (IA-13827-13618)

This construction stormwater file was selected as a representative inspection. IDNR received a written complaint on 6/9/08. IDNR inspected the site on 7/1/08. The inspection report and a NOV were transmitted to the facility on 7/17/08, 17 days after the inspection. The inspection report was complete, except the time the inspection was performed is not recorded. Photos were taken during the inspection and included in the report. Records were reviewed during the inspection. The NPDES General Permit #2 Checklist was used to record the findings of the inspection. The NOV requires a response from the permittee documenting actions taken to return the site to compliance. The permittee responded to the NOV on 7/23/08. The response included a narrative description of actions taken to return the site to compliance, photos of actions taken and a revised SWPPP. The actions seemed sufficient to correct the deficiencies noted during the inspection but there was no statement from IDNR in the file confirming that the site returned to compliance.

#### WRA North River Interceptor (IA-14508-14298)

This construction stormwater file was selected as a representative inspection. IDNR received a complaint on 4/10/08. Upon receipt of the complaint the Field Office 5 staff called the permittee and asked for recent site inspections which were received on 4/15/08. Inspections of the site were performed on 4/17/08 and 4/23/08. The findings of the inspections and a NOV were transmitted to the permittee on 5/8/08, 21 days after the first inspection. The inspection report did not contain the time the inspection occurred and the phone number of the permittee/site contact. The NOV did not contain the permit requirements but only the violations. The main problems observed were lack of stabilization and inadequate controls at a stream crossing. The file contained evidence of several communications between the site contractors and the Field Office 5 staff person about efforts to address the problems noted during the inspection. The staff person visited the site again on 7/17/08 and sent an email to the permittee on 7/24/08 stating that the “site looks well controlled.”

#### **4. Facilities Reviewed for Potential Concerns under Particular Data Metrics**

*Metric 1B3:* Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (4th Qtr FFY 2008)

#### FPL Energy Duane Arnold, LLC (IA0003727)

The OTIS facility report and PCS both show that all DMRs were received and entered

into the national database in FFY 2008. DMR non-receipt does not appear on this facility's record. EPA cannot conclude why this facility was flagged under metric 1b3.

Newton STP (IA0027723)

The OTIS facility report does not show any cases of DMR non-receipt for this facility, and PCS likewise shows that all DMRs were entered into the database for FFY 2008. EPA cannot conclude why this facility was flagged under metric 1b3.

Sioux City STP (IA0043095)

By comparing the permit effluent limits that appear in PCS to the limits specified in the facility's permit, EPA found that the twelve monthly limits for ammonia had not been coded into PCS. These twelve limits were present, however, in the state database. Upon closer examination, EPA and IDNR found that the ammonia limits had been rejected by GENTRAN, the interface between the state database and PCS, when IDNR attempted to batch the limit sets to PCS. EPA and the state have collaborated to devise an appropriate course of action to remedy this problem and prevent future occurrences of similar problems.

*Metric 1C2: Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (4th Qtr FFY 2008)*

Mercy Medical Center (IA0081477)

IDNR issued this facility a new permit on 8/17/08. The permit appears to be properly coded in PCS, and IDNR has entered the monitoring data that the facility began to collect in August 2008. Considering the effective date of the permit, the fourth quarter of FFY 2008 did not represent a full quarter of monitoring, which EPA suspects is the reason that this facility incorrectly appears on the list of facilities missing DMRs for the fourth quarter.

Pulaski STP (IA0074802)

DMRs for this facility were received by IDNR on time and had been entered into the state data system. However, IDNR did not ensure that the DMR data had been loaded into PCS for the fourth quarter of FFY 2008, as it was missing from the national database.

*Metric 1C3: Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (4th Qtr FFY 2008)*

Edwards Cast Stone Company (IA0076821)

There is no DMR data for 4<sup>th</sup> Qtr FFY 2008 in PCS. EPA also did not find any DMR data in the facility file. The state issued a new permit to this facility during the fourth quarter, which might be the reason that no DMRs were yet present during this period.

Eldora STP (IA0025933)

EPA compared the permit effluent limits that appear in PCS to the limits specified in the facility's permit, and all limits appeared to be properly coded. Furthermore, all of Eldora's DMRs appeared to have been received on time and entered into PCS without any non-receipt flags appearing in the state database or PCS. EPA cannot conclude why this facility was flagged under metric 1c3.

Fort Dodge Animal Health/Riverside Facility (IA0071366)

DMR data was in PCS for all three months of 4<sup>th</sup> Qtr FFY 2008. EPA cannot conclude why this facility was flagged under metric 1c3.

Homestead Colony Mobile Home Park (IA0067806)

DMR data was in PCS for all three months of 4<sup>th</sup> Qtr FFY 2008. EPA cannot conclude why this facility was flagged under metric 1c3.

Lawler STP (IA0056910)

DMR data was in PCS for all three months of 4<sup>th</sup> Qtr FFY 2008. EPA cannot conclude why this facility was flagged under metric 1c3.

Mercy Medical Center (IA0081477)

IDNR issued this facility a new permit on 8/17/08. The permit appears to be properly coded in PCS, and IDNR has entered the monitoring data that the facility began to collect in August 2008. Considering the effective date of the permit, the fourth quarter of FFY 2008 did not represent a full quarter of monitoring, which EPA suspects is the reason that this facility incorrectly appears on the list of facilities missing DMRs for the fourth quarter.

Pulaski STP (IA0074802)

DMRs for this facility were received by IDNR on time and had been entered into the state data system. However, IDNR did not ensure that the DMR data had been loaded into PCS for the fourth quarter of FFY 2008, as it was missing from the national database.

*Metric 7B: Facilities with unresolved compliance schedule violations at the end of FFY 2008*

Lawler STP (IA0056910)

IDNR issued an administrative order to this facility on 12/21/04 requiring that Lawler achieve compliance with final limits by 10/1/07. This order was not in PCS as required, although the compliance schedule due dates, including the 10/1/07 deadline, do appear in PCS and OTIS. Eleven other milestone due dates appear on the OTIS facility report as well, but none have been populated with milestone achievement dates as required, which is the reason for the compliance schedule violations. In addition, through correspondence dated 9/25/07, IDNR extended the city's deadline to complete construction of the treatment facility and achieve compliance with final limits to 12/31/07. However, this amendment to the administrative order likewise is not reflected in OTIS, but IDNR was required to update this information accordingly.

Mount Ayr STP (IA0023574)

IDNR entered milestone due dates in PCS for this facility's compliance schedule, which began in 2003. However, the OTIS facility report shows that IDNR has not entered any milestone achieved dates, resulting in compliance schedule violations since 2003. Note that this facility's permit expired on 5/13/06 but had not been renewed at the time of EPA's program review due to delay in the approval of a Use Attainability Analysis for the receiving water body.

Sutherland STP (IA0036129)

The compliance schedule milestones for this facility had been entered into PCS by IDNR; however, the OTIS facility report shows that the state entered not more than one of thirteen milestone achievement dates, which are required data elements.

*Metric 7C: Facilities with unresolved permit schedule violations at the end of FFY 2008*

Earling STP (IA0025364)

PCS shows there have been twelve quarters of compliance schedule violations from October 2005 through September 2008 due to sixteen of twenty schedule milestones lacking matching achievement dates. There was a letter in the file dated 1/9/02 that voided the compliance schedule in the permit. These violations remain unresolved in PCS, and a noncompliance code will continue to appear in OTIS until the state resolves the violations.

Eldora STP (IA0025933)

This facility had a compliance schedule in its permit, dating back to 2002, requiring treatment plant improvements. EPA identified a letter in the file from the U.S. Army Corps of Engineers dated 4/19/07 verifying that all construction work at the STP was complete. In addition, the state's inspection report dated 4/1/08 notes that the "compliance schedule has been completed." All of the milestones for the compliance schedule were recorded in PCS, but only the first report on construction progress was recorded as a deliverable received by IDNR. All other milestones were passed without any entry of achieved dates in PCS, which triggered inaccurate compliance schedule violations in PCS starting in 2001. The state did not enter the milestone achievement dates or deliverable submission dates in PCS, as required to demonstrate compliance.

#### Fontanelle STP (IA0041840)

The compliance schedule in this facility's permit included ten or more milestone due dates that IDNR had entered into PCS when the permit was coded into the database. The OTIS facility report shows that the state has not entered any milestone achievement dates in PCS, leaving unachieved milestones that triggered compliance schedule violations dating back to 2004. Review of the facility file did not uncover any correspondence between IDNR and the city regarding work performed pursuant to the compliance schedule. EPA cannot say with certainty whether the violations in OTIS are the result of IDNR not entering any milestone achievement dates in OTIS or whether the city in fact did not do the work required by the compliance schedule. In either case, IDNR has not properly tracked this facility's compliance schedule.

#### North Liberty STP (IA0032905)

According to a 7/12/04 inspection report from IDNR, this facility had a compliance schedule in its permit requiring completion of a monitoring study followed by compliance with final ammonia effluent limits by 8/31/06. The report also indicates that on 1/20/04, the permit was amended because the facility was able to comply with final limits earlier than anticipated. The OTIS facility report show that IDNR had entered the compliance schedule milestones into PCS, but none of the milestone achievement dates or deliverable submission dates were entered into PCS. This has resulted in the facility inaccurately being flagged for SNC.

#### Sioux City STP (IA0043095)

The facility's permit contains a compliance schedule requiring a facility plan that was submitted on-time but lacked selection of a scenario for secondary treatment. IDNR reacted appropriately to this deficient plan and obtained a final decision on secondary treatment within three months of the plan due date. The second milestone that caused a compliance schedule violation was submission of the first report on construction progress, originally due in August

2008. Early in FFY 2008, Sioux City requested that this due date be postponed, and IDNR agreed to revise it. The OTIS facility report suggests that this revised due date was not loaded into PCS, thereby causing an inaccurate violation.

IP&L Burlington Generating Station (IA0001783)

The Burlington Generating Station's permit compliance schedule requires the facility to collect data and submit a report by 10/5/07 to conclude whether or not its discharge can comply with proposed iron limits. The facility's contractor submitted the required report, as verified in IDNR's 12/17/07 inspection report. In a 2/24/09 document, IDNR concurred with the facility's conclusion that proposed iron limits were unnecessary to protect water quality and thereby deleted the limits. IDNR should have revised the milestone due dates in PCS to reflect the additional time needed by the state to reach its conclusion regarding compliance with iron limits.

Bridgewater (SIRWA) (IA0062006)

The compliance schedule in this facility's permit included eight milestone due dates that IDNR had entered into PCS when the permit was coded into the database. The OTIS facility report shows that the state has not entered any milestone achievement dates in PCS, leaving unachieved milestones that triggered compliance schedule violations dating back to 2002. EPA did not determine whether the violations in OTIS are the result of IDNR not entering any milestone achievement dates in OTIS or whether the city in fact did not do the work required by the compliance schedule. In either case, IDNR has not properly tracked this facility's compliance schedule.

Walcott STP (South) (IA0061891)

The compliance schedule in this facility's permit included seven milestone due dates that IDNR had entered into PCS when the permit was coded into the database. The OTIS facility report shows that the state has not entered any milestone achievement dates in PCS, leaving unachieved milestones that triggered compliance schedule violations dating back to 2002. EPA did not determine whether the violations in OTIS are the result of IDNR not entering any milestone achievement dates in OTIS or whether the city in fact did not do the work required by the compliance schedule. In either case, IDNR has not properly tracked this facility's compliance schedule.

*Metric 7D: Major facilities with DMR violations (at any time in FFY 2008)*

Creston STP (IA0035238)



This facility had one quarter of CBOD violations and two quarters of flow exceedances during FFY 2008, none of which are SNC. The flow exceedances were addressed by an NOV from IDNR on 8/1/08; see the evaluation of this NOV in Section 1 above.

FPL Energy Duane Arnold, LLC (IA0003727)

PCS shows CBOD violations at this facility during December 2007 (SNC) and July 2008 (non-SNC), as well as a TSS violation during July 2008. EPA did not review the state's response to these violations.

Humboldt STP (IA0047791)

This facility exceeded its flow limits during April, May, and June 2008 (i.e. the third quarter) and exceeded its non-monthly limit for ammonia during December 2007 and September 2008. None of these violations rose to the level of SNC. IDNR did not take any action against the city for these violations but should have done so considering statements made by the state inspector in the 9/17/08 inspection report; see Section 1 above.

Sioux City STP (IA0043095)

This facility exceeded its monthly and non-monthly limits for TSS in July 2008. This represented the first appearance of TSS violations in at least three years of compliance history at Sioux City, and the exceedances did not rise to the level of SNC.

Winterset STP (IA0034291)

This facility had isolated ammonia and pH violations in the first and second quarters of FFY 2008, respectively, neither of which rose to the level of SNC. Neither parameter was exceeded at any other point between FFY 2006 and 2008.

*Metric 8A2: SNC rate—percent of majors in SNC (at any time in FFY 2008)*

FPL Energy Duane Arnold, LLC (IA0003727)

PCS shows monthly and non-monthly CBOD exceedances at this facility during December 2007 that rose to the level of SNC. The database marked the violation as resolved during the next reporting period, the second quarter of FFY 2008.

IP&L Burlington Generating Station (IA0001783)

This facility is flagged for SNC in FFY 2008 due to compliance schedule violations that were the result of IDNR not updating its milestone due dates in PCS. This is therefore an

erroneous case of SNC. Refer to the discussion for this facility under metric 7c.

#### North Liberty STP (IA0032905)

This facility is in SNC for overdue compliance schedule milestones in PCS, even though those milestones had been achieved by the facility. See the discussion for North Liberty under metric 7c.

#### Sioux City STP (IA0043095)

This facility is in SNC for DMR non-receipt and compliance schedule violations. DMR non-receipt in PCS is likely the result of ammonia limits not being properly coded; see the discussion of this issue under metric 1b3. The record in PCS otherwise suggests that all DMRs have been received at IDNR. SNC due to compliance schedule violations is likewise a database error; see the corresponding discussion under metric 7c.

#### Winterset STP (IA0034291)

This facility is in SNC for DMR non-receipt during the first three quarters of FFY 2008, despite that PCS does not show any non-receipt violations during that period. This appears to be an OTIS data error. EPA cannot determine why non-receipt violations appeared in OTIS.

*Metric 10a: Major facilities without timely action in FFY 2008*

#### Creston STP (IA0035238)

No SNC-level violations—effluent or otherwise—appear on the OTIS facility report for this facility in FFY 2008 or the four quarters leading up to FFY 2008. At some point during FFY 2008, this facility met EPA's Watch List criteria by having had at least two consecutive quarters of SNC violations within the preceding four quarters, but the state apparently overrode those noncompliance codes.

#### IP&L Burlington Generating Station (IA0001783)

This facility is flagged for lack of timely action in FFY 2008 due to compliance schedule violations that were the result of IDNR not updating its milestone due dates in PCS. This is therefore the result of data error. Refer to the discussion for this facility under metric 7c.

#### North Liberty STP (IA0032905)

This facility was flagged without timely action due to overdue compliance schedule milestones in PCS, even though those milestones had been achieved by the facility. See the

discussion for North Liberty under metric 7c.

Sioux City STP (IA0043095)

Three consecutive quarters of DMR non-receipt violations in PCS have flagged this facility as lacking timely enforcement action. This flag is unwarranted and should disappear pending correction of the database errors underlying DMR non-receipt, as discussed under metric 1b3.

Winterset STP (IA0034291)

Three consecutive quarters of DMR non-receipt violations in PCS have flagged this facility as lacking timely enforcement action. As discussed for metric 8a, this appears to be an erroneous violation in OTIS.

**APPENDIX G**

**Metric 4b in Detail—Accomplishments Pursuant to State Commitments**

<p><b>Metric 4b</b></p>	<p>Delineate the NPDES compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated. Incorporate by reference any independent regional assessment of state performance against commitments for the review year. Where an independent assessment has not previously been performed by the Region, delineate the commitments for the FFY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The commitments should be broken out and identified. The types of commitments to include would be for inspections, pretreatment reviews, DMR entry, compliance data entry, follow-up on SRF recommendations, etc. Information on accomplishments may be found in databases, official correspondence between the state and EPA, and submission of deliverables.</p>				
	<p><b>State Commitment</b></p>	<p><b>Accomplishments</b></p>	<p><b>Data Source</b></p>	<p><b>Evaluation*</b></p>	<p><b>Initial Findings</b></p>
<p><b>Commitment 1</b></p>	<p>Conduct site surveys for new or expanding wastewater treatment facilities to ensure they will be located in accordance with design criteria and will not impact groundwater.</p>	<p>IDNR's construction permitting staff in the Water Quality Bureau requests a site evaluation from FSCB for each new or expanding facility as part of the permitting process. IDNR performed 54 site surveys in FFY 2008</p>	<p>State NPDS database; Conversation between EPA and the state</p>	<p>Appears Acceptable</p>	<p>Satisfaction of this commitment is self-assured as part of IDNR's permitting protocol.</p>
<p><b>Commitment 2</b></p>	<p>Provide technical assistance to municipalities that experience more than one mechanical failure wastewater bypass in any year to ensure they meet adequate design criteria.</p>	<p>IDNR inspects and visits municipalities, addressing bypasses through NOV's and technical assistance. IDNR made 519 municipal wastewater visits in FFY 2008.</p>	<p>State NPDS database; Conversation between EPA and the state</p>	<p>Appears Acceptable</p>	<p>IDNR appears to be fulfilling this commitment on an ongoing basis.</p>

<b>Commitment 3</b>	Provide technical assistance to point source operators and city officials that will assist them in pollution prevention and in complying with NPDES requirements. Assist with Regional Wastewater Operators Meeting.	IDNR offered assistance to wastewater operators on 5,903 occasions and made assistance visits to 519 municipal and 150 industrial treatment facilities in FFY 2008.	State NPDS database; Conversation between EPA and the state	Appears Acceptable	IDNR appears to be fulfilling this commitment on an ongoing basis.
<b>Commitment 4</b>	Investigate all complaints of wastewater and other pollutant discharges.	IDNR investigated 300 wastewater complaints in FFY 2008.	State NPDS database	Appears Acceptable	IDNR appears to be fulfilling this commitment on an ongoing basis.
<b>Commitment 5</b>	Review monthly operating reports submitted by NPDES facilities and enter data into NPDS.	IDNR reviews operating reports for compliance as they are received.	Conversation between EPA and the state	Appears Acceptable	IDNR appears to be fulfilling this commitment on an ongoing basis.
<b>Commitment 6</b>	Conduct a compliance review of all NPDES permit renewals. Ten to fifteen percent of these facilities are expected to be out of compliance and will require technical assistance and/or administrative orders with compliance schedules to achieve compliance.	The state reviews the compliance status of all facilities before renewing permits.	Conversation between EPA and the state	Appears Acceptable	This commitment is monitored by EPA's NPDES permitting program.
<b>Commitment 7</b>	Prepare QNCR regarding the compliance status of major NPDES permittees and submit to EPA.	As of 3/27/09, IDNR has submitted 3 of the 4 QNCRs for FFY 2008. EPA received the QNCR for Oct-Dec 2007 on 3/18/08; for Jan-Mar 2008 on 8/20/08; for Apr-Jun 2008 on	EPA correspondence file	Potential Concern	Only 1 of the 4 QNCRs for FFY 2008 was received within 90 days following the end of the applicable quarter. Therefore, 3 of the 4 QNCRs were not submitted in accordance with the PPG commitment.

		2/12/09; and for Jul-Sep 2008. At the time of review, EPA had not yet received the QNCR.			
<b>Commitment 8</b>	Conduct necessary enforcement actions and provide EPA with copies of wastewater enforcement actions as they occur and are documented.	The state took formal enforcement action against 28 facilities in FFY 2008.	EPA correspondence file	Appears Acceptable	See metrics 9 and 10 for an evaluation of the state's enforcement responses. IDNR sent EPA copies of enforcement actions taken in FFY 2008.
<b>Commitment 9</b>	For communities which IDNR is the lead agency, complete enforceable schedules for CSO communities to implement LTCPs or separate they sewer systems.	IDNR established enforceable schedules to implement LTCPs in FFY 2008 for 2 of the 5 CSO communities on which IDNR is the lead agency.	Enforcement docket	Potential Concern	The state continues to negotiate the terms of consent decrees with 2 of the 3 CSO communities that did not have enforceable schedules at the end of FFY 2008. For the third community, the state did not establish an adequate enforceable schedule in the consent decree.
<b>Commitment 10</b>	Handle appeals and hearings on NPDES permits and enforcement action in a timely and appropriate manner.	2 administrative orders issued in FFY 2008 were appealed, which IDNR handled in a timely manner.	EPA correspondence file	Appears Acceptable	IDNR appears to be fulfilling this commitment on an ongoing basis.
<b>*Evaluation Criteria:</b>					
<b>Minor Issues/Appears Acceptable</b> -- No EPA recommendation required.					
<b>Potential Concern</b> -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis.					
<b>Significant Issue</b> -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation.					

**APPENDIX H**

**State Correspondence**



WWPD Rec'd AUG 13 2009

STATE OF IOWA

CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
RICHARD A. LEOPOLD, DIRECTOR

August 7, 2009

William A. Spratlin  
Director, Water, Wetlands and Pesticides Division  
US EPA  
Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

Dear Mr. Spratlin:

This letter is in response to your June 15, 2009, letter transmitting the draft report of the EPA review of the Iowa National Pollutant Discharge Elimination System (NPDES) program.

Enforcement Report

Some of the findings in the draft report are not an accurate assessment, and we request that the draft report be revised pursuant to our comments in the attached, marked-up version. To address the elements noted as being an area of concern or needing improvement in the executive summary:

**Element 12—Final Penalty Assessment and Collection**

**Finding 12-1:** Administrative orders with penalties do not consistently have documentation in the files to explain any differences between initial and final assessed penalties and to demonstrate penalty collection.

**We disagree with this statement. DNR will continue to provide documentation of these two items in its legal files and will ensure that the field office files also contain these items.**

**Element 1—Data Completeness**

a. **Finding 1-1:** The state does not consistently ensure that required data elements are completely, accurately, and successfully uploaded into the national program database.

**DNR is working on our data upload problems. So far we have identified 10 facilities that have data upload problems. Fran Amin, Dennis Ostwinkle, Russ Royce and Brian Lee have been assigned to work on correcting and uploading the data. We**

802 EAST 8th STREET / DES MOINES, IOWA 50319-0034  
PHONE 515-281-5918 FAX 515-281-6794 www.iowadnr.gov



are starting with the Major NPDES facilities. DNR has had two conference calls with EPA Region VII to discuss issues, especially issues we will need help with from EPA. DNR will continue to work on and address data upload problems with assistance from EPA. Without knowing the full extent of the problem we cannot accurately estimate the time needed to make all the corrections to the Major facilities data. However, we will keep EPA Region VII informed of our progress through the periodic conference calls.

We would appreciate any assistance in expediting CDX Help Desk review of file upload failures. Sometimes Fran has waited weeks for a response. If the failure is a whole batch, then no subsequent data can be safely uploaded.

b. Finding 1-2: The state does not actively monitor and update its compliance schedules in the state and national program databases, creating illegitimate violations in PCS. The Field Services and Compliance Bureau will start entering all compliance milestone dates into the database. Once our NPDES database is populated the data will be uploaded into PCS.

c. Finding 1-3: The state does not enter all of its enforcement actions in PCS for major and P.L. 92-500 minor facilities.

The Field Services and Compliance Bureau will begin entering all enforcement actions into our NPDES database. Once this is completed the data will be uploaded into PCS.

#### Element 2—Data Accuracy

a. Finding 2-1: Violations are not linked to formal enforcement actions against major facilities.

The Department will begin reviewing our violation entries into our NPDES database. Some violations and enforcement data have not been entered into the database which we believe is the underlying problem. As the DNR works on improving data quality, especially the uploads to PCS, we will continue to work on data entry by staff to incorporate and link the violations and enforcement actions.

b. Finding 2-2: Inspection type codes chosen in PCS inaccurately represent some state inspections.

Field Services and Compliance staff will review the inspection code choices and ensure inspections are coded appropriately.

#### Element 6—Quality of Inspection Reports

a. Finding 6-1: Inspection reports do not consistently and clearly articulate the facility's compliance status with specific requirements.

The Field Services and Compliance Bureau will review the current inspection report standard operating procedures (SOP) and make any needed adjustments. Our inspection reports will either state the specific violations in the text of the report, the cover letter or in some other manner that will clearly indicate the compliance status of the facility.

#### Element 7—Identification of Alleged Violations; and

**Element 8—Identification of SNC and high-priority violations (HPVs)**

a. **Finding 7-1:** The state did not enter single-event violations (SEVs) in PCS in FFY 2008 and has not yet begun doing so.

Currently, Field Staff do not enter Single Event Violations (SEV's) into our NPDS database. We have had discussions with EPA Region VII about SEV's and what qualifies as an SEV's. During this discussion it was determined that Sanitary Sewer Overflows (SSO's) should likely be entered into the database as SEV's. Although the DNR has made SSO's a priority as has EPA, we have a long way to go and much work to do with this particular issue. In the next several months we will work on a plan to enter routine SEV's into the database. We will require additional time to complete discussions with EPA and work through some issues with SSO's before we can commit to entering these as SEV's.

**Element 10—Timely and Appropriate Action**

a. **Finding 10-2:** The state does not issue NOV's in a timely manner consistent with the timeframe established in the state EMS manual, particularly with regard to violations reported on DMRs.

There are many reasons why we do not issue NOV's in a timely manner consistent with the timeframe noted in the EMS. We will review the EMS document and make adjustments to reflect current practices.

**Element 11—Penalty Calculation Method**

a. **Finding 11-1:** Penalties in administrative orders do not include specific delayed and avoided costs that comprise economic benefit of noncompliance.

While we disagree with the statements in the draft report, we will review the economic benefit portion of our enforcement referrals and will develop a plan to more accurately account for delayed and avoided costs. We will need further dialogue with EPA on this issue.

With regard to a CAFO standard operating procedure, the state will continue development of its compliance evaluation inspections at permitted CAFOs. Progress toward a state inspection SOP has been made with standard inspection forms and nutrient management plan forms and checklists. Further development of the state's compliance evaluations at CAFOs will incorporate EPA's CWA Inspection Report Evaluation Guide.

**Permit Report**

Some of the findings in the draft report are not an accurate assessment, and we request that the draft report be revised pursuant to our comments in the attached, marked-up version. For instance

- Approved Total Maximum Daily Load (TMDL) are already being implemented in NPDES permits
- Water Quality Based Effluent Limits versus technology based limits are already clearly identified in the permit rationale



- Mass limitations for ammonia and additional monitoring are already contained in the Estherville permit

We request the statutory/regulatory authority for Sanitary Sewer Overflow prohibitions and Whole Effluent Toxicity requirements.

If you have any questions, please contact Christine Spackman at (515)281-7276.

Sincerely,



Wayne Gieselman  
Administrator  
Environmental Services Division

Attachment

cc: Barb Lynch  
Chuck Corell  
Ed Torney