

State Review Framework

Minnesota Round 2 Report
for Federal Fiscal Year 2009

November 17, 2011

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I. EXECUTIVE SUMMARY

Major Issues

The SRF review of Minnesota identified the following major issues:

- **Data Entry** – The MPCA RCRA, CWA, and CAA programs each have issues with providing complete, accurate, and/or timely data to EPA systems. Missing or inaccurate data affects the ability of both EPA and MPCA to determine enforcement program quality. It also hinders our ability to give the public a transparent and accurate account of compliance and enforcement actions by the state. See NOTE on page 5.
- **Inspection Reports and Evaluations** – CWA inspection reports and evaluations were not complete, and/or did not provide enough information to support compliance determinations. This can result in a failure to identify violations for follow-up action and return to compliance. CAA evaluations were essentially complete, but inspection reports generally lacked details required by Section IX the CMS policy, such as facility information (i.e., facility contact and phone number) and compliance/enforcement history.
- **Violation Identification and Determinations of Significant Non-Compliance** – For all three programs, a large number of violation determinations are not being entered/translated into data systems in a timely manner, which is related to the data issue mentioned above. For the CWA program, Single Event Violations (those usually found as a result of an inspection instead of through automated reviews of discharge reports) are not being reported and/or are not being identified as significant non-compliance when appropriate. Non-timely violation identification, and failure to determine the most significant non-compliance, prevents MPCA and EPA from taking timely and appropriate action to address important environmental problems.
- **Penalty Documentation** – In addition to other data, penalties for the RCRA program are not being reported to the Online Tracking Information System (OTIS) and RCRAInfo. As a result, the lack of data gives the appearance to the public that penalties are not being used as an appropriate tool for enforcement in Minnesota.

Summary of Programs Reviewed

I. Clean Air Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- **Element 1:** Review of the 26 state data metrics under Element 1 shows that required data is incomplete in eight cases.

- **Element 2:** Data from compliance and enforcement files is inaccurately entered into the data system in many cases.
- **Element 3:** Timely entry of HPVs, compliance monitoring actions, and enforcement actions into the Air Facility System (AFS) is happening only in 29%, 27%, and 76% of the cases respectively.
- **Element 4:** MPCA did not meet commitments in the Environmental Performance Partnership Agreement (EnPPA) regarding the accurate and timely entry of data.
- **Element 6:** MPCA's Full Compliance Evaluations (FCE's) and Compliance Monitoring Reports (CMRs) often did not contain the required basic elements.
- **Element 7:** Many violations were not reported to AFS in a timely manner.
- **Element 10:** National goals for timeliness of enforcement actions were not met in many cases.

Areas meeting SRF program requirements or with minor issues for correction include:

- **Element 5** — Inspection Coverage
- **Element 8** — Identification of High Priority Violations
- **Element 9** — Return to Compliance
- **Element 11** — Penalty Calculation Documentation
- **Element 12** — Final Penalty Assessment and Collection

II. Clean Water Act/National Pollutant Discharge Elimination System Program (NPDES)

The problems which necessitate state improvement and require recommendations and actions include:

- **Element 1:** Although data is complete in the ICIS-NPDES database, it is not accurate per Element 2 below.
- **Element 2:** A comparison of files to ICIS-NPDES shows that there is much data that is entered, or translated, incorrectly into ICIS-NPDES.
- **Element 3:** Although certain data entered or translated by MPCA is timely, other data is incomplete or inaccurate. By default, this data is therefore not timely.
- **Element 4:** Six of eight planned inspections commitments were met, while one of two additional EnPPA commitments was met.
- **Element 6:** Inspection reports were sometimes not complete, and often not timely according to MPCA guidelines.
- **Element 7:** Based on an OTIS violation data pull, it appears that MPCA is not fully reporting violations to ICIS-NPDES.
- **Element 8:** It appears that some Single Event Violations (SEVs) are not being reported and/or appropriately being identified as Significant Noncompliance (SNC).
- **Element 10:** SNC violations are not being addressed in a timely manner.

Areas meeting SRF program requirements or with minor issues for correction include:

- **Element 5** — Inspection Coverage
- **Element 9** — Return to Compliance
- **Element 11** — Penalty Calculation Documentation
- **Element 12** — Final Penalty Assessment and Collection

III. Resource Conservation and Recovery Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- **Element 1:** Review of 16 state data metrics under Element 1 shows that required data was incomplete in 13 cases.
- **Element 2:** Data from compliance and enforcement files is often inaccurately reflected in RCRAInfo and/or the Online Tracking Information System (OTIS).
- **Element 3:** Because of data issues under Elements 1 and 2, this Element cannot be analyzed because OTIS does not contain complete and accurate data.
- **Element 4:** MPCA is not entering data into RCRAInfo in a manner that would allow it to be public.
- **Element 5:** MPCA is not conducting inspections at 100% of LQGs over five years as required by national policy.
- **Element 7:** While MPCA generally has accurate and timely compliance determinations, the data issues under Elements 1 and 2 prevent an accurate violation determination rate from getting into OTIS.
- **Element 10:** OTIS reported that 0% of SNCs had formal actions or referrals taken within 360 days.
- **Element 12:** No penalties were recorded in OTIS for MPCA.

Areas meeting SRF program requirements or with minor issues for correction include:

- **Element 6** — Quality of Inspection Reports
- **Element 8** — Identification of SNC
- **Element 9** — Return to Compliance
- **Element 11** — Penalty Calculation Documentation

NOTE: As a result of an interpretation of a 2004 Minnesota state court decision that protects certain state enforcement data from public release, MPCA has decided that it should prevent “open” case data from getting into EPA’s OTIS – and therefore its public interface called ECHO. This appears to be the main reason for the data issues listed under the RCRA program above. The MPCA decision also affects CAA and CWA data as well, but may not be as evident in regard to the FY 09 data used in this review.

EPA believes that this is problematic, as it prevents the public from understanding the status of compliance and enforcement in Minnesota and using this information to help ensure a better environment. It also does not meet the intent of data requirements found in program

authorization and other agreements with MPCA. EPA will work with MPCA to find a solution to this issue.

II. BACKGROUND INFORMATION **ON STATE PROGRAM AND REVIEW PROCESS**

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. GENERAL PROGRAM OVERVIEW

- **Agency structure:** MPCA has approximately 800 staff who work at eight offices throughout Minnesota. The state is broken up into six regions: North Central, Northeast, Northwest, Southeast, Southwest, and Metro. The agency receives operating guidance from the:
 - MPCA Citizens' Board. The Board sets agency policy and direction and takes action on certain other significant or controversial issues.
 - MPCA Commissioner. Under the authority of delegations from the MPCA Citizens' Board, the Commissioner directs the day-to-day work of the agency's staff.

- **Compliance/enforcement program structure:** Compliance and enforcement activities are organized under the Municipal, Industrial, and Regional Divisions of MPCA. The Industrial Division operates the agency's core air quality and hazardous waste regulatory programs, which work with large and small facilities to ensure they are in compliance with regulations. Water Quality compliance activities are split and fall into the Industrial, Municipal, and Regional Divisions. This split attempts to better serve the regulated community, including large municipalities and industry in programs such as feedlots, construction storm water, and individual septic treatment systems.

- **MPCA Enforcement Procedures:** The severity of the enforcement action depends on the potential for harm or environmental impact of the violation, the extent of deviation from compliance, the history of the regulated party, the extent of economic benefit, and how quickly the problem is corrected, among other factors. Several types of actions, as described in MPCA’s Enforcement Response Plan (ERP), are available. Actions that are specifically mentioned in, or affect, this report are described below:
 - Administrative Order (AO) – An enforceable document issued by the MPCA that describes a noncompliance situation and lists requirements to resolve the noncompliance. An AO is different from an Administrative Penalty Order (APO) in at least three important respects: (1) an AO may specify corrective action that takes more than 30 days to complete; an APO usually cannot specify action that exceeds the 30 day limit; (2) no penalty can be assessed in an AO; an APO can assess a penalty; and (3) after issuance, an AO can be appealed by the Regulated Party in the Court of Appeals.
 - Administrative Penalty Order (APO) - An enforceable document issued by the MPCA that requires a regulated party to take and complete all corrective actions within 30 days and pay a penalty, which may be forgiven if the action is taken in the time and manner required. APOs for which penalties may be forgiven are referred to as “Forgivable APOs.” APOs for which penalties are not forgiven are referred to as “Nonforgivable APOs.” A portion of a penalty may be forgiven as well, and these APOs are called “Combination APOs.” The MPCA Commissioner has statutory authority to issue an APO assessing a penalty up to a maximum of \$10,000 for all violations identified during an inspection or other compliance review.
 - Alleged Violations Letter (AVL) - Before being issued to a Regulated Party, nonforgivable, forgivable, and combination APOs are preceded by an Alleged Violations Letter (AVL), which contains a written allegation including a description of the violations observed by enforcement staff during an inspection or found by staff in conducting a file review. AVLs may request corrective action(s) and they document the MPCA’s allegation of violation(s). The Regulated Party is usually given ten days to disagree with the allegations.
 - Letter of Warning (LOW) - A notice sent to the Regulated Party to document violations discovered during an inspection, complaint follow-up or review of submittals. The LOW may also require the Regulated Party to complete specific corrective actions to return the facility to compliance. When corrective action is required, the LOW usually gives the Regulated Party from 7 to 30 days to complete it.
 - Notice of Violation (NOV) - A notice issued to a Regulated Party to document violations that are more serious or more numerous than those that are typically addressed in a LOW, or for cases that require corrective actions which take more than 30 days to complete and thus could not be resolved through an APO. NOVs do not contain a monetary penalty, although a subsequent document may do so.
 - Notice of Noncompliance (NON) (Air Quality Performance Test Violations Only) - A notice to the Regulated Party which documents violations identified by a performance test. It is essentially a Notice of Violation that has been standardized

for failed performance tests. It usually does not resolve the noncompliance; rather, it notifies the Regulated Party of the noncompliance and start timelines prescribed in Minnesota rules.

- Stipulation Agreement (STIP) - Negotiated settlements commonly used when violations are serious enough to warrant a civil penalty greater than \$10,000 or when a penalty is less than \$10,000, but the corrective actions needed to correct the problem will take more than 30 days to complete. In the latter case, an APO cannot be used. Stipulation agreements include a schedule the violator must follow to return to compliance with applicable regulations. Statutory limits on penalties established in Minnesota Statutes used for stipulation agreements are \$25,000 per day of violation in Hazardous Waste and \$10,000 per day of violation in all other media.
- Schedule of Compliance (SOC) - A negotiated settlement between the MPCA and the Regulated Party commonly used to resolve a noncompliance situation that does not require the upfront payment of a civil penalty for the initial noncompliance. For example, an SOC may be used to extend a Regulated Party's performance testing schedule. While an SOC does not include upfront civil penalties, it does include stipulated penalties for failure to follow the SOC.
- Referral - Some violations can be referred to the EPA for enforcement. A referral to the EPA may be made if attempted negotiation of a stipulation agreement breaks down completely and the prospect of resolution at the state level is unlikely. Also, if the case involves Native American lands, national precedents, federal regulations with no parallel state rules, or interstate or EPA national initiatives, the MPCA may request federal intervention to facilitate resolution.
- Consent Decree - One way to resolve a case that has resulted in litigation is to use a Consent Decree, which is a negotiated agreement between the MPCA and a Regulated Party that is also signed by a judge who has been asked to take jurisdiction of the case settlement and entered as an order of a court (i.e., a decree of the court to which the parties consent). A Consent Decree states how the dispute between the MPCA and the Regulated Party is to be resolved, ordinarily this will include an obligation to pay penalties and to undertake corrective action within a specified time.
- Civil Legal Action - Another enforcement tool is to initiate civil legal action against a violator of rules, statutes, or permit conditions. In most cases, this is done after all other administrative efforts proved unsuccessful. In those cases where serious violations have occurred and the company is unwilling to enter into any comprehensive settlement (Stipulation Agreement, Compliance Agreement, or Corrective Action Agreement), or if a company signs an agreement but then refuses to comply with the terms, civil legal action may be necessary. Civil penalty authority has been granted to the MPCA which allows penalties to be assessed at \$10,000 per day of violation for all violations except for violations in hazardous waste, where penalties can be assessed at \$25,000 per day of violation. There is no maximum.
- Criminal Legal Action - Minn. Stat. ch. 115.071, subd. 2, grants the authority to pursue criminal legal action against companies or individuals who willfully or negligently violate an environmental standard, rule, variance, order, stipulation

agreement, schedule of compliance, or permit. Criminal cases are handled by the MPCA case lead, the Criminal Division of the Office of the Attorney General, or the County Attorney and local authorities (sheriff, etc.) in the jurisdiction where the violation(s) occurred. Once sufficient evidence is gathered, a criminal complaint is filed in the District Court where the violations occurred. In Minnesota, the counties are given the first option to prosecute criminal cases.

- Roles and responsibilities:** As part of the compliance determination and enforcement response, a forum is convened. The MPCA uses the forum process to ensure consistency and promote group decision-making in a consensus-based approach to enforcement. A forum is informal meetings held by MPCA staff and counsel to evaluate a noncompliance situation and select an appropriate enforcement response. The forum group consists of the inspector(s), experienced program staff and peers, supervisors, legal counsel, and others as pertinent to the case. Forums are generally used for cases where a Notice of Violation or other elevated enforcement actions are deemed appropriate. Forums are also used to conduct and determine appropriate penalty calculations. A Case Development Form (CDF) and a Penalty Calculation Worksheet (when appropriate) is generated for each forum and is transferred to the enforcement file to document information and decisions relevant to the case.
- Local agencies included/excluded from review:** No local agencies are delegated directly by EPA to conduct work in the programs under the SRF. As a result, no local agencies were chosen for an independent SRF review. However, files for the MPCA review cover multiple MPCA field locations – thus representing action across the state.
- Resources:** The MPCA has the following resources allocated for the specific programs listed;

Program	Total FTE	Metro	Duluth	Brainerd	Detroit Lakes	Mankato	Marshall	Rochester
RCRA	9.5	5	1	.5	1.5	.5	.5	.5
Air Quality	11 4.5 stack test 6.5 enf	7	2	2				
Water Quality								
Industrial	4.5	1.5	1	1		1		
Municipal	10	1.5	1	1	1.5	2	1	2
CAFO	5.5	.5		1	.5	1	1.5	1

It should be noted that each program generally has one Assistant Attorney General Staff assigned per program for the purposes of compliance and enforcement. It should also be noted that the above listed FTE's are for those specific programs and at this time there is very little overlap between programs. The MPCA RCRA program has a Joint Powers Agreement with Hennepin County for the completion of 18 LQG inspections every fiscal year and under the agreement, the County can bring enforcement cases through the MPCA's enforcement process.

- **Staffing/training:** All programs listed above are operating at less than their full complement of staff due to funding and budget constraints with filling vacancies, and it is not anticipated that they will get back to the full complement of staffing in the future. The MPCA will continue to manage its work force within those budget constraints to try and meet any federal commitments.
- **Data reporting systems/architecture:** MPCA's Delta Data System serves as the Agency's compliance and enforcement database. Delta facilitates the issuance of permits and tracks the Agency's compliance and enforcement activities. Data from Delta is manually transferred on a regular basis into U.S. EPA's program databases.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

- **Priorities:** The following tenets serve as the foundation for the EPA-MPCA relationships with respect to Enforcement and Compliance Assistance activities:
 - Explore the most effective application of the full spectrum of compliance tools - from compliance assistance through compliance assurance, administrative/civil enforcement to criminal prosecution - to encourage/maintain the compliance of sources of all sizes.
 - Use joint up-front planning to coordinate priorities, maximize agency resources, avoid duplication of efforts, eliminate surprises and institutionalize communication.
 - Manage for environmental results which support the respective agencies' environmental goals and objectives.
 - Ensure that compliance and enforcement information is complete, accurate and timely, consistent with EPA policies and the Information Collection Request (ICR).
- **Best practices:** The RCRA Program's Health Care Initiative (Initiative) continued in FY2009 and was integrated into MPCA goals. The MPCA partnered with the Minnesota Technical Assistance Program (MnTAP), a non-regulatory pollution prevention program at the University of Minnesota, to continue the Initiative that the MPCA and metropolitan county hazardous waste program began in 2002. All Minnesota hospitals and surgery centers either have been, or are currently being, brought into compliance with state and federal waste rules through direct regulatory inspections. Beginning in October 2010, all health care facilities became subject to full enforcement of hazardous waste regulations, including civil penalties for noncompliance.
- **Element 13:** MPCA did not submit an Element 13 request.

C. PROCESS FOR SRF REVIEW

- **Review period:** Fiscal Year in which review was conducted was 2009.

- **Key dates:**
 - April 15, 2010 – Region 5 and MPCA hold Opening Meeting.
 - May 25, 2010 – Region 5 sends MPCA official OTIS data pull.
 - July 20-21, 2010 – Region 5 RCRA program conduct file reviews.
 - August 10-12, 2010 - Region 5 CAA program conducts file review.
 - August 16 - 18, 2010 – Region 5 CWA program conducts file review.
 - March 17, 2011 – Region 5 sends official Preliminary Data Analysis.

- **Communication with the state:** Throughout the SRF process, Region 5 communicated with MPCA through official letters sent to the MPCA Commissioner and continual conversations by phone and email. During the Opening Meeting, Region 5 conducted a brief training of SRF Round 2 procedures and discussed issues and timelines for implementation in Minnesota. In regard to file reviews, Region 5 opened each review with a meeting with MPCA personnel to discuss the file review steps, and then closed each review with a discussion of initial file review results.

- **List state and regional lead contacts for review.**
 - SRF Coordinators – Andrew Anderson/R5 (312-353-9681), Stephanie Cheaney/R5 (312-886-3509), John Elling/MPCA (651-757-2337)
 - CWA – Ken Gunter/R5 (312-353-9076), James Coleman/R5 (312-886-0148), Kate Balasa/R5 (312-886-6027), Jenny Davison/R5 (312-886-0184), Barbara VanTil/R5 (312-886-3164), Ken Moon/MPCA (651-297-8469), Paul Scheirer/MPCA (218-846-0728)
 - RCRA – Lorna Jereza/R5 (312-353-5110), Spiros Bourgikos/R5 (312-886-6862), John Elling/MPCA (651-757-2337), Brandon Finke/MPCA (651-757-2358), A-Jelil Abdella/MPCA (651-757-2178)
 - CAA –Erik Harden/R5 (312-886-2402), Michele Jencius/R5 (312-353-1377), Shilpa Patel/R5 (312-886-0120), Katie Koelfgen/MPCA (651-757-2499)

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Minnesota’s compliance and enforcement programs, Region 5 and MPCA identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

State	Status	Due Date	Media	Element	Title	Finding
MN – Round 1	Long Term Resolution	12/31/2011	CAA	Violations ID'ed Appropriately	Inspection Reports not complete.	Hold discussions to agree on contents of inspection report.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Data Accurate	QNCR and Watchlist not accurate.	Implement data quality procedures to ensure that enforcement actions are linked to violations. Follow-up Note: R5 will review as part of Round 2.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Appropriately	Files not complete.	Include link to file procedures in inspection manual. Follow-up Note: MPCA submitted an inspection manual to EPA for review. R5 is reviewing as part of Round 2 SRF.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Penalty Calculations	All penalty calculations not documented.	Calculations of penalties should be included in files. Follow-up Note: MPCA provided a template penalty calculation worksheet for EPA review. R5 will check on implementation of the worksheet as part of Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Appropriately	Inspection content not complete.	Submit state inspection manual to Region 5 for review. Follow-up Note: MPCA provided an inspection review document that describes the required content for inspection reports. R5 is reviewing as part of Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Timely	Inspection reports not timely.	Inspection manual should include report turnaround time. Follow-up Note: MPCA's revised inspection manual provides for prompt communication of inspection results to regulated parties. R5 will review as part of the Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Timely & Appropriate Actions	AEL above joint goal.	Include SNC enforcement timelines in revised ERP for major facilities. Follow-up Note: MPCA has indicated that they have created a document that addresses the issue of SNC enforcement timelines. R5 will check on implementation of document in the Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Return to Compliance	SEV data needs to be in database.	Include provisions for transfer of SEV data into ICIS-NPDES plan. Follow-up Note: MPCA has been working on better data entry and translation capability. R5 will check on the status of this during the Round 2 review.

IV. FINDINGS

Findings represent the region’s conclusions regarding the issue identified. Findings are based on the initial findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings:

Finding	Description
Good Practices	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. Additionally, the report may single out specific innovative and noteworthy activities, processes, or policies that have the potential to be replicated by other states and can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the state.
Meets SRF Program Requirements	This indicates that no issues were identified under this element.
Areas for State* Attention *Or, EPA Region’s attention where program is directly implemented.	<p>This describes activities, processes, or policies that the SRF data metrics and/or file reviews show are being implemented with minor deficiencies. The state needs to pay attention to these issues in order to strengthen performance, but they are not significant enough to require the region to identify and track state actions to correct.</p> <p>This can describe a situation where a state is implementing either EPA or state policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the state should self correct without additional EPA oversight. However, the state is expected to improve and maintain a high level of performance.</p>

<p>Areas for State * Improvement – Recommendations Required</p> <p>*Or, EPA Region’s attention where program is directly implemented.</p>	<p>This describes activities, processes, or policies that the metrics and/or 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 areas where the metrics indicate that the state is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>
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Recommended actions in the following tables are intended to resolve issues in the best way possible given the context of particular situations. EPA will routinely monitor both actions and subsequent performance to verify that issues are being addressed. EPA will also review policy or other documents produced by the state as a result of this review. If a state fails to carry out actions in this report, EPA will respond in a manner that is appropriate and designed to correct major identified issues.

Clean Air Act Program

Element 1 — Data Completeness: Degree to which the Minimum Data Requirements (MDRs) are complete.		
1-1	This finding is a(n)	<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
	Finding	Review of the 26 state data metrics under Element 1 shows that eight MDRs are incomplete.
	Explanation	<p>Data Metrics 1b and 1c are either 1) not accurately tracked or 2) not tracked. According to MPCA, MPCA does not track Data Metrics 1b2, 1c1, 1c2 and 1c3 unless the case is a High Priority Violator (HPV). When Data Metrics 1c1, 1c2 and 1c3 are not tracked, then by default Data Metrics 1c4, 1c5, and 1c6 are not tracked. These are MDRs, which MPCA can and must report (these MDRs are not related to the Minnesota state court decision mentioned on page 5 of this report that protects state enforcement data from public release).</p> <p>Compliance Coordinators and/or Case Leads follow the HPV Pathway Process. They create a report containing some minimum data requirements. The data in these reports are entered into AFS. Therefore, if the aforementioned data metrics are not provided, then they are not entered into AFS.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 1b1 – the number of synthetic minors in MPCA’s Delta database and AFS are 239 and 347, respectively; this is greater than 10 % discrepancy. • Data Metric 1b2 – the number of NESHAP (Part 61) minors is not tracked. • Data Metric 1c1 – the number of NSPS (Part 60) air program designations per CAA is not tracked. • Data Metric 1c2 – the number of NESHAP (Part 61) air program designations per CAA is not tracked. • Data Metric 1c3 – the number of MACT (Part 63) air program designation per CAA is not tracked. • Data Metric 1c4 – 0 % of facilities with FCEs conducted after 10/1/2005 have NSPS subpart designations. Since this is calculated based on Data Metric 1c1, and Data Metric 1c1 is not tracked, then Data Metric 1c4 is consequently zero. • Data Metric 1c5 – 0 % of facilities with FCEs conducted after 10/1/2005 have NESHAP subpart designations. Since this is calculated based on Data Metric 1c2, and Data Metric 1c2 is not tracked, then Data Metric 1c5 is consequently zero. • Data Metric 1c6 – 0 % of facilities with FCEs conducted after 10/1/2005 have MACT subpart designation. Since this is calculated based on Data Metric 1c3, and Data Metric 1c3 is not tracked, then Data Metric 1c6 is consequently zero. • Other data metrics not listed for this element appear acceptable or only have minor concerns.

	State Response	<p>In Metric 1b1, the 347 number from air facility system (AFS) includes shutdown (OPST = "X") facilities. When the shutdowns are excluded the number is 249, which is a 4% difference. This is well within the 10% tolerance set by EPA.</p> <p>In Metrics 1b2 and 1c1 through 1c6, National Emission Standards for Hazardous Air Pollutant (NESHAP), Maximum Achievable Control Technology (MACT), and New Source Performance Standards (NSPS) are only tracked for high priority violator (HPV) facilities</p>
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, if issues are not resolved through monthly conference calls concerning data entry, MPCA will propose a plan to address them, including specific actions to address data gaps identified above and milestones for implementation. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.		
2-1	This finding is a(n)	<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
	Finding	<p>Three of three (100%) of data metrics reviewed under Element 2 appear acceptable.</p> <p>The file review showed accurate data in 10 of 30 (33.3%) files.</p>
	Explanation	<p><u>MDRs</u>: The data metrics associated with Element 2 indicate the compliance status is accurately reported in AFS.</p> <p><u>File Metric 2c</u>: Errors found in the files included wrong: action types; deviation codes; SIC codes; addresses; compliance statuses; and dates of CMRs/FCEs. In addition, each of the following was found during the file review: duplicate entry of a facility; one PCE wrongly identified as an FCE; one facility name was not updated in AFS; one facility should be removed from AFS; and AFS did not show a violation and APO associated with one facility.</p> <p>The inaccuracies associated with File Metric 2c appear to be data entry errors; they do not indicate a serious issue.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 2a0 – the number of HPVs divided by the number of non-compliant sources is 49.4 %. The national goal is <=50 %. • Data Metric 2b1 – the number of stack test results at federally-reportable sources without pass/fail results is 0.5 %. The national goal is 0 %. • Data Metric 2b2 – AFS reported 9 stack test failures. • Files Metric 2c – 10 of 30 files (33.3 %) contained completely accurate data in AFS.

	State Response	Data is not available to verify these figures, but they are likely valid.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.

3-1	This finding is a(n)	<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
	Finding	The national goal for timely entry (entered in 60 days or less) of HPVs, compliance monitoring MDRs, and enforcement MDRs is 100%. Respectively, MPCA entered 29.7%, 27.1% and 76.1% in a timely manner.
	Explanation	<p>MDRs associated with Element 3 should be reported to AFS within 60 days of designation.</p> <p>MPCA is making an effort to comply with timeliness standards but these standards conflict with Minnesota’s data privacy limitations, which have been imposed on MPCA since November 2009. MPCA cannot add a case to AFS until it becomes “public.” (See NOTE on page 5 of this report).</p> <p>Cases are most commonly resolved through an Administrative Penalty Order (APO) or a Stipulation Agreement. The Minnesota Legislature authorizes the MPCA to use APOs when corrective actions can be completed within 30 days and penalties are \$10,000 or less. Stipulation Agreements may include penalties in excess of \$10,000.</p> <p>The “public” date for a Stipulation Agreement is the execution date. APOs are not “public” until they are closed (penalties paid and corrective actions completed).</p> <p>Since Minnesota cannot add a case to AFS until it becomes public, the relevant dates to consider (for data between 10/1/2009 and 9/30/2011) are:</p> <ul style="list-style-type: none"> • Issuance or Satisfaction dates for STIPs <ul style="list-style-type: none"> ○ Issuance Date to Issuance entry into AFS <ul style="list-style-type: none"> ▪ Average 60 days ▪ 60% < 60 days ○ Satisfaction Date to Satisfaction Date entry into AFS <ul style="list-style-type: none"> ▪ Average 91 days ▪ 50% < 60 days • Satisfaction dates for NOVs and APOs <ul style="list-style-type: none"> ○ Satisfaction Date to Satisfaction Date entry into AFS <ul style="list-style-type: none"> • Average 90 days • 39% < 60 days

	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 3a0 – 29.7 % of HPVs are entered within 60 days of designation. • Data Metric 3b1 – 27.1 % of compliance monitoring-related MDR actions are reported within 60 days after designation. • Data Metric 3b2 – 76.1 % of enforcement-related MDR actions are reported within 60 days after designation.
	State Response	<p>The MPCA calculates that 35.7% of HPVs (10 of 28) were entered within 60 days from Day 0, which is slightly higher than EPA's number (29.7). Also, there are four cases where the Day 0 takes place before the discovery action. This occurs when the discovery action was a test review (action 35 or 37).</p> <p>These actions were entered with the test dates (rather than the review dates) at the time of the HPV pathway creation. Later those action achieved dates were changed to the review dates (the test dates were then cross referenced in the RD16 field). The Day 0 does not adjust for changes in the discovery date. In these four cases, the timeliness indicator is biased toward the untimely side.</p> <p>The compliance monitoring minimum data requirements (MDR) rate of 27.1% is misleading because for FFY 2010, a team of staff reviewed all compliance certifications and their review was not completed within the 60 day timeliness window. Therefore, an accurate characterization of our annual certification submittals and reviews was not possible within the timeliness window of 60 days. The enforcement MDR rate of 76.1% is likely valid.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • In light of Minnesota's data privacy limitations, by 60 days of the date of the final report, EPA and MPCA will agree on the course of action needed to address timely entry. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.		
4-1	This finding is a(n)	<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
	Finding	<p>For FFY 2009, MPCA met commitments for the number FCEs at Majors and SM-80 sources.</p> <p>MPCA met zero of two non-FCE enforcement related commitments in the Minnesota EnPPA.</p>

	Explanation	<p><u>FCE commitments</u>: MPCA has a traditional CMS. For FFY 2009, MPCA committed to and completed the following:</p> <ol style="list-style-type: none"> 1) MPCA committed to conduct 123 FCEs at Major Sources. MPCA completed 124 FCEs (101%). 2) MPCA committed to conduct 24 FCEs at SM 80s. MPCA completed 25 FCEs (104%). <p><u>Non-FCE enforcement related commitments</u>: MPCA has a written agreement, the EnPPA, to:</p> <ol style="list-style-type: none"> 1) provide accurate and timely data consistent with the CMS, HPV Policy and the AFS ICR; and 2) enter the MDRs into AFS within 60 days. <p>MPCA enters data to AFS; however, some data is inaccurate or untimely. Also, not all MDRs are entered into AFS. Both non-FCE commitments have not been met.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 4a – MPCA exceeded its FFY 2009 commitment to conduct 123 FCEs at Majors, by conducting 124 FCEs (100.8 %). MPCA exceeded its FFY 2009 commitment to conduct 24 FCEs at SM80s, by conducting 25 FCEs (104.2 %). • File Metric 4b – MPCA met 0 of 2 non-FCE enforcement related commitments in the Minnesota PPG-Max Workplan.
	State Response	<p>EPA has not specified what data entered to AFS is inaccurate or untimely. Timeliness is not always attainable. One MDR in particular, the MACT, NSPS subparts has only been entered for HPVs, which has been previously disclosed to EPA.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • Solutions to issues identified above regarding the non-FCE commitments not being met due to inaccurate data entry or un-timely data entry will be addressed by the actions under Elements 1, 2, and 3 in this report. • Solutions to issues with reporting compliance status will be resolved under Elements 7 and 8 in this report. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	<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
	Finding	<p><u>CMS-flagged Majors</u> MPCA almost met the goal completing planned inspections at 100% of Title V majors over two years, and reviewing 100% of Title V certifications.</p> <p><u>CMS-flagged SM80s</u> MPCA appears to be on track to meet the goal of completing 100% of FCEs at SM80s over a 5 year CMS cycle.</p>

	Explanation	<p><u>CMS-flagged Majors</u> MPCA completed 98.3% of FCEs for the last completed 2 year CMS cycle and completed 93.7% of FCEs for the last 2 completed fiscal years (FFYs 2007 and 2008).</p> <p><u>CMS-flagged SM80s</u> As of 2009, MPCA was 3 years into their CMS cycle. MPCA has completed 27.3% FCEs for the current CMS cycle and 68.7% of FCEs for the most recent completed 5 fiscal years (FFYs 2004, 2005, 2006, 2007 and 2008).</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in this area on its own without a recommendation.</p>
	Metric(s) and Quantitative Value(s)	<p><u>CMS-flagged Majors</u></p> <ul style="list-style-type: none"> • Data Metric 5a1s – MPCA completed FCEs at 283 of 288 (98.3 %) of CMS-flagged majors for the last completed 2 year CMS cycle. The goal is 100 %. • Data Metric 5a2s – MPCA completed FCEs at 284 of 303 (93.7 %) of CMS-flagged majors for the most recent 2 completed fiscal years. The goal is 100 %. • Data Metric 5g0s – 99.6 % of Title V annual compliance certifications required to be submitted were reviewed by MPCA. The goal is 100 %. <p><u>CMS-flagged SM80s</u></p> <ul style="list-style-type: none"> • Data Metric 5b1s – MPCA completed FCEs at 73 of 267 (27.3 %) of CMS-flagged SM80s for the current CMS cycle. The goal is 20 to 100 %. • Data Metric 5b2s – MPCA completed FCEs at 184 of 268 (68.7 %) of CMS-flagged SM80s for the most recent 5 completed fiscal years. The goal is 100 %. <p><u>Other</u></p> <ul style="list-style-type: none"> • Data Metric 5e0s – at the time of the OTIS data pull there were 3 facilities with unknown compliance status. The compliance status remains unknown until an FCE is conducted.
	State Response	<p>The synthetic minors (SMs) to be inspected are agreed upon with EPA before the start of each FFY. The inspection completion percentage for those agreed upon has been much closer to 100%. Minnesota does not have 267 synthetic minor facilities (the SM80s). Minnesota's total SM universe is 249. More importantly, there are actually 42 SM80s's in Minnesota based on the most recent emission data available. Despite there being 42 SM80s in Minnesota, the MPCA has inspected 102 SM facilities in the most recent five years, including all identified SM80s. This places the MPCA far ahead of the obligation to inspect the 42 SM80s during the five-year time period.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

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.

6-1	This finding is a(n)	<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
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	Finding	<p>The file review showed eight of 12 FCEs conducted by MPCA met the definition of FCE.</p> <p>Zero of 12 CMRs contained all the basic elements listed in Section IX of the CMS policy.</p>
	Explanation	<p>Based on the file review, eight of 12 FCEs documented all the required elements of an FCE according to the CMS policy.</p> <p>The format MPCA uses for CMRs is similar in all six regions and is based on the Delta database. The database format lists each regulatory requirement for every permitted emission source, similar to the layout of the MPCA Title V permit. Inspectors print out a template from the database for their inspection, fill in the template by hand, and then enter the data into Delta after the inspection.</p> <p>Delta inspection reports include all applicable regulatory requirements for each facility as pulled directly from the Title V requirements for Major facilities. A code (compliant, noncompliant, advisory - discussed or not discussed, not applicable, shutdown or indeterminate) is listed by each requirement based on the result of the FCE.</p> <p>Certain FCEs conducted by MPCA did not meet the definition of FCE.</p> <ul style="list-style-type: none"> • Several items were listed as indeterminate in the CMRs, where a compliance status should have been assigned. An FCE is not complete until the compliance status for each emission unit is determined. <ul style="list-style-type: none"> ○ In one instance, after the CMR was written, the indeterminate emission units were determined to be noncompliant. Delta and the CMR were not updated to reflect the noncompliant status. Delta and the CMR should have been updated. • Violations identified in one excess emission report submitted just prior to conducting an FCE were not addressed in the FCE CMR. <p>CMRs lacked several elements including: Title V designation; compliance enforcement history; contact name; and contact phone number. This is consistent with findings during SRF Round 1.</p> <p>On August 12, 2010, at the end of the onsite file review, EPA discussed with MPCA why four of 12 FCEs did not meet the definition of FCE. Mainly, MPCA did not get credit for items in the CMR with “indeterminate” status, even if MPCA had later determined the compliant/noncompliant status of these items. EPA told MPCA in order for MPCA to take credit for the work they performed, they needed to update the compliance status of the previously indeterminate items in the CMRs. If MPCA did this, then the FCEs would be considered complete.</p> <p>EPA also discussed with MPCA the reasons 0 of 12 the CMRs were considered incomplete. Since the CMRs were considered incomplete for mostly administrative reasons (i.e., a contact telephone number was missing), MPCA believed they could easily address the issue. MPCA believed they could update their Delta Data System to ensure the required administrative elements were captured.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 6a – 12 files with FCEs were reviewed • File Metric 6b – 8 of 12 (67 %) FCEs met the definition of FCE • File Metric 6c – 0 of 12 (0 %) CMRs contain all basic elements listed in Section IX of the CMS policy.

	State Response	<p>The Delta permit and compliance report system contains the emission unit information. There is no need to repeat this information in the inspection report. The other identified data gaps, including a summary of recent enforcement actions, are now being entered by staff.</p> <p>MPCA Air Quality Program staff has been instructed to begin completing a description of the facility enforcement history. This description is also contained in the Delta database, which contains all enforcement actions and related documents for each facility. Contact names are included in the inspection report. Telephone numbers are readily available in the Delta database.</p> <p>Numerous scenarios exist for designating an emission unit as indeterminate for compliance status. For example, the source may have an emission limit for a specific pollutant, but due to the very low likelihood of an emission test failure because of the low potential to emit that pollutant from that process, no emission testing is required. During an inspection, the best designation for this pollutant and emission unit compliance status is indeterminate.</p> <p>MPCA does not follow the narrative report style used and requested by EPA. However, MPCA does review individual compliance status for each emission unit, pollution control device, pollutant, and all other related permit applicable requirements during the inspection and report completion process.</p> <p>This actually provides a more thorough and complete review of facility compliance status than would a narrative.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA will provide inspection staff guidance on FCE and CMR completeness. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

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.

7-1	This finding is a(n)	<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
	Finding	<p>Twenty-four of 29 files reviewed led to accurate compliance determinations and four of 14 non-HPVs were timely reported to AFS.</p> <p>Of the facilities with a failed stack test, 50.0% had noncompliance status, which exceeds the goal > ½ national average.</p>

	Explanation	<p><u>MDRs</u>: MDR associated with Element 7 should be reported to AFS within 60 days of designation. This did not happen in 10 of 14 cases.</p> <p><u>File Metrics</u>: During the SRF file review, EPA discovered the following.</p> <ul style="list-style-type: none"> • Two files: AFS indicated a violation, but the file did not. • Three files: Disparity between the numbers of violations identified in the CMR versus those reported to AFS.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 7c1 – 139 federally reportable sources had noncompliant status versus 274 federally reportable facilities with compliance monitoring or an enforcement action (50.7 %). The national average is 21.8 %. MPCA met the goal, which is > ½ national average, or > 10.9 %. • Data Metric 7c2 – 5 of 10 (50.0 %) facilities that failed a stack test had noncompliant status in AFS. The national average is 44.7 %. MPCA met the goal, which is > ½ national average, or > 22.4 %. • File Metric 7a – 24 of 29 (82.8 %) of files reviewed led to accurate compliance determinations. • File Metric 7b – 4 of 14 (28.6 %) of violations discovered had timely entry into AFS.
	State Response	<p>The MPCA appears to have met the national goal for these metrics.</p> <p>The Westrom Decision requires that information regarding active enforcement cases not be made public until the case is resolved. This has introduced a delay in making details of open enforcement cases available for EPA to post In the ECHO database and at other locations.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • Solutions to issues with commitments regarding data entry will be resolved under Elements 1, 2, and 3 in this report. • As part of the actions above, MPCA must discuss reasons for compliance determinations not being consistently entered correctly in AFS by 60 days of the date of the final report. Any actions needed to correct this issue will be implemented by a date agreed upon by both parties. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

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	This finding is a(n)	<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
	Finding	<p>MPCA met five of six metrics associated with HPVs under this Element, which shows MPCA is generally identifying HPVs accurately and reporting them to AFS.</p>

	Explanation	<p><u>MDRs</u>: In most instances, MPCA is accurately identifying HPVs and reporting them to AFS.</p> <p>Data Metric 8d indicates the percent of HPVs at Majors with respect to informal enforcement actions. Of all informal enforcement actions in FY 2009, 78.8 % of these occurred at Majors not previously designated an HPV.</p> <p><u>File Metrics</u>: MPCA accurately identified HPVs in 26 out of 28 files.</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in this area on its own without a recommendation.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 8a – MPCA’s HPV rate for Majors was 26 of 302 (8.6 %). The goal is > ½ national average. Given the national average during the SRF review period was 7.8 %, the goal is > 3.9 %. • Data Metric 8b – MPCA’s HPV rate for SMs was eight of 347 (2.3 %). The goal is > ½ national average. Given the national average during the SRF review period was 0.6 %, the goal is > 0.3 %. • Data Metric 8c – 25 of 30 (83.3 %) of formal actions for Majors had a prior HPV listing. The goal is > ½ national average. Given the national average during the SRF review period was 74.9 %, the goal is > 37.5 %. • Data Metric 8d – 26 of 33 (78.8 %) of informal enforcement actions for Majors did not have a prior HPV listing. The goal is < ½ national average. Given the national average during the SRF review period was 45.8 %, the goal is < 22.9 %. • Data Metric 8e – 13 of 18 (72.2 %) of sources with failed stack test actions received an HPV listing (Majors and SMs). The goal is > ½ national average. Given the national average during the SRF review period was 42.6 %, the goal is > 21.3 %. • File Metric 8f – 25 of 27 files (92.6 %) with HPVs were accurately determined to be HPVs.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	This finding is a(n)	<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
	Finding	Eleven of 11 formal enforcement actions included required corrective action that will return facilities to compliance.

	Explanation	The case files detailed the compliance issue, such as stack testing violations or failure to submit a required report, as well as the actions taken to achieve compliance. In the case of failed stack tests, companies re-tested. With respect to failure to submit reports, the sources were required to submit the obligatory report by a given date.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 9a – 11 files were reviewed containing formal and informal enforcement responses. • File Metric 9b – 11 of 11 (100 %) of formal enforcement responses returned, or will return, a source to compliance.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Element 10 — Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

		<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
10-1	This finding is a(n)	
	Finding	46.6% of HPVs did not meet timeliness goals according to a review of AFS. With respect to the file review, 71.4% of enforcement responses were addressed in a timely manner and 85.7% of responses for HPVs were appropriately addressed.
	Explanation	<p>Region 5 believes most actions involving HPVs were addressed appropriately. MPCA has been referring cases to its Department of Justice, with good results overall, as indicated by Data Metric 12b</p> <p><u>MDR</u>: The HPV Policy states HPVs should be addressed in 270 days from Day Zero (date of HPV designation). In 34 of 74 HPVs, the HPV was not addressed in 270 days from Day Zero.</p> <p><u>File Metrics</u>: 71.4 % of formal enforcement responses were addressed in a timely manner and 85.7 % of enforcement responses for HPVs were appropriately addressed.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 10a – 34 of 74 (46.6 %) of HPVs did not meet timeliness goals. • File Metric 10b – 5 of 7 (71.4 %) of HPVs reviewed were addressed in a timely manner. • File Metric 10c – 6 of 7(85.7 %) enforcement responses for HPVs were appropriately addressed.
	State Response	More complex cases do often require more than 270 days to reach settlement.

	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, EPA and MPCA’s compliance and enforcement programs will discuss options for improving ability to meet timeliness goals. Solutions determined during these discussions will be implemented by a date agreed upon by both parties. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.
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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	This finding is a(n)	<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
	Finding	Of the 11 formal enforcement actions reviewed that contained monetary penalties, ten included documented calculations for both the gravity and economic benefit portions of the penalty, or statements as to why economic benefit was not considered.
	Explanation	<p>Based on the file review, MPCA generally provides clear written rationale for its penalty calculations. MPCA, however, is limited by state statute for the penalties they may assess for APOs.</p> <p>MPCA’s use of APOs is sometimes appropriate; however EPA believes there are circumstances in which the penalty should not be forgiven or in which the proper calculated penalty exceeds \$10,000 and a stipulation agreement should be used instead. This is consistent with findings during SRF Round 1.</p> <p>MPCA should reconsider the use of APOs, in some cases, when a larger penalty is necessary.</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in this area on its own without a recommendation.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 11a – in 10 of 11 files (90.9 %) economic benefit and gravity were documented and considered in penalty calculations.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

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	This finding is a(n)	<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
	Finding	Up to 87.5 % of HPV-actions contain a penalty, which exceeds the national goal of at least 80.0 %. With respect to the file review, eight of eight cases with penalties contained documentation of the difference between the initial and final penalties; six of six documented penalties were collected.
	Explanation	<p><u>MDRs and File Metrics:</u> Case files documented: the proposed penalty; justifications for penalty mitigation; and whether the penalty was collected.</p> <p>Please note: the universe of penalties is less than Metric 11a because some files did not have adjustments between initial and final penalties. Also, some files forgave 100% of the penalty. This occurred in many files where the facility did not submit a report. The facilities were sent a formal enforcement response that stated the proposed penalty would be 100% forgiven if the facility submitted the required report.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 12a – 94 actions-with-penalties are listed in AFS. • Data Metric 12b – 28 of 32 (87.5 %) HPV-actions contain a penalty, which exceed the national goal of at least 80.0 %. • File Metric 12c – 8 of 8 cases (100.0 %) with penalties reviewed contain documentation of the difference between the initial and final penalties. • File Metric 12d – 6 of 6 files (100.0 %) with penalties reviewed contained documentation that penalties had been collected.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Clean Water Act Program

Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.		
1-1	This finding is a(n)	<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
	Finding	Review of the 26 data metrics under Element 1 shows that one of the MDRs was not complete. The remaining MDRs were either complete or contained minor discrepancies such as those due to universe changes.
	Explanation	Although most MDRs appear complete under Element 1, this is being classified an Area for State Improvement based on the results of Element 2 below.
	Metric(s) and Quantitative Value(s)	Review of the 26 data metrics under Element 1 shows that one of the MDRs was not complete. The remaining MDRs were either complete or contained minor discrepancies such as those due to universe changes.
	State Response	The summary should <i>not</i> reference Element 2, which is a separate determination. The findings are accurate, but the scope of the recommendation does not match the findings. EPA has also not disclosed which MDR is not complete.
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA should review current data entry/translation procedures to reconcile issues found in this review as well as provide new or updated written procedures and training to staff to resolve data entry problems. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.		
2-1	This finding is a(n)	<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
	Finding	50% of major facility actions were not linked to violations as required in ICIS-NPDES and 15 of 32 files had data accurately reflected in national database. It appears that data is not being translated correctly between the state database and ICIS-NPDES.

	Explanation	Both the data and file metrics show that the minimum data requirements were not completely accurate in ICIS-NPDES.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 2A0S – 50% major facility actions were not linked to violations. • File Metric 2B – In 15 of 32 reviewed files (47%) data was accurately reflected in the national data system
	State Response	For major facilities, violations were rarely linked in PCS because the Data Manager was not receiving the enforcement actions and was not notified in the Quarterly Noncompliance Report (QNCR) reviews if a specific violation was referenced in an enforcement action.
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA should review current data entry/translation procedures to reconcile issues found in this review as well as provide new or updated written procedures and training to staff to resolve data entry problems. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.		
3-1	This finding is a(n)	<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
	Finding	Although certain data entered or translated by MPCA is timely, other data is incomplete or inaccurate. By default, this data is therefore not timely.
	Explanation	See above.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metrics - Percent change between frozen data and data pulled for the review.
	State Response	<p>This finding improperly equates Element 3 with Element 2.</p> <p>Data was previously entered on a quarterly basis in PCS and is now entered quarterly in ICIS. The data was reviewed by the MPCA as part of the Data Verification Process in PCS, not ICIS. Since that review the data has migrated to ICIS. It is possible that not all data migrated.</p>

	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA should review current data entry procedures to reconcile issues found in this review as well as provide new or updated written procedures and training to staff to resolve data entry problems. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.
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Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.

4-1	This finding is a(n)	<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
	Finding	Six of eight planned inspections commitments were met, while one of two additional EnPPA commitments was met.
	Explanation	<p>MPCA met inspection commitments in FY09 for majors, non-majors, bio-solids, industrial stormwater, and CAFOs. They did not meet inspection commitments for MS4s and pretreatment facilities, although the majority of committed inspections were conducted in both of these cases.</p> <p>In regard to non-inspection commitments in the EnPPA, MPCA maintained a SNC rate of less than 13%, but did not ensure that all compliance and enforcement information was complete and accurate.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Metric 4a- 6 of 8 planned inspection commitments (75%) were met. • Metric 4b- One of 2 non-inspection commitments (50%) in the EnPPA were met.
	State Response	The MPCA's Pretreatment Program committed to perform 2 Audits and 7 pretreatment compliance inspections (PCis). Due to a communication error among program staff, only 1 Audit and 6 PCis were conducted.
	Recommendation(s)	<ul style="list-style-type: none"> • Issues with complete and accurate data will be resolved by actions under Elements 1, 2, and 3 of this report.

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.		
5-1	This finding is a(n)	<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
	Finding	Six of eight planned inspections commitments were met.
	Explanation	<p>MPCA met inspection commitments in FY09 for majors, non-majors, bio-solids, industrial stormwater, and CAFOs. They did not meet inspection commitments for MS4s and pretreatment facilities, although the majority of committed inspections were conducted in both of these cases.</p> <p>CMS commitments supersede goals identified in OTIS pull.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 5A0S – According to OTIS, 59 of 95 majors were inspected (62.1%). • Data Metric 5B1S – According to OTIS, 145 of 674 (21.5%) non-major individual permittees were inspected. MPCA reported that the number should actually be 28 out of 674 (33.8%) • Data Metric 5B2S – According to OTIS, 81 of 477 (18.1%) non-major general permitted were inspected. • Data Metric 5C0S – No inspections other than those listed above were reported.
	State Response	The MPCA's Pretreatment Program committed to perform 2 Audits and 7 PCIs. Due to a communication error among program staff, only 1 Audit and 6 PCIs were conducted.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

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.

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.		
6-1	This finding is a(n)	<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

	Finding	Twenty-five of 30 (83%) reports were complete, 26 of 30 (87%) reports provided sufficient information to lead to an accurate compliance determination and 20 of 30 (67%) reports reviewed were timely according to MPCA timelines.
	Explanation	MPCA has made significant improvements in consistently producing complete and sufficient inspection reports since Round 1 SRF. However, only 20 of 30 (67%) reports reviewed were timely according to MPCA timelines.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Metric 6b- 25 of 30 inspection reports (83%) were complete. • Metric 6c - 26 of 30 inspection reports (87%) provided sufficient information to lead to an accurate compliance determination. • Metric 6d - 20 out of 30 (67%) reports reviewed were timely according to MPCA timelines
	State Response	<p>In the Traditional Point Source Facilities (industrial and municipal wastewater) Program, two files were reviewed. One did have enough information to make a determination, and one did not. The Compliance Evaluation Report (CER) template for compliance evaluation inspections (CEis) was not used in that case. EPA approved this template in response to the 2007 State Review Framework (SRF) and determined that by using the template, adequate information is obtained to make these determinations. MPCA leadership will remind all staff to use this template.</p> <p>MPCA leadership will remind staff of the established timelines for inspection report completeness. The MPCA Point Source Inspector Manual states that a CER should be sent within 30 days of the inspection, or with the first written correspondence if violations are present (i.e., alleged violation letter, letter of warning, notice of violation, etc.)</p> <p>In the Concentrated Animal Feedlot Operation (CAFO) Program, a total of seven files were reviewed. Two of the files were found to be deficient for both timeliness and completeness. One of the files did not include a completed inspection checklist. The second file included a checklist; however, the checklist did not contain enough information to make a compliance determination. Neither file included correspondence with the regulated party regarding the inspections. To ensure inspection report timeliness and completeness, program leadership will remind staff to use available tools and establish timelines for inspection report completeness. The Feedlot NPDES/SDS Permitted Facility Inspection Checklist (wq-f3-46, 8/9/11) ensures there is sufficient information to lead to an accurate compliance determination. The Feedlot Program Compliance Inspection Flow Chart (wq-fS-09, 4/7 /08) clearly shows the steps to be taken after an inspection, including that inspection reports are to be completed, returned to the regulated party, and properly filed.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA will provide inspection staff guidance on inspection report timeliness and encourage staff to continue improvements made on inspection report completeness. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

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.

7-1	This finding is a(n)	<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
	Finding	Based on OTIS violation data pull, it appears that MPCA is not fully reporting violations to ICIS-NPDES, and thus the OTIS report is not representative of actual violation identification or resolution in Minnesota. In regard to the file review, 25 of 30 reviewed inspection files (83%) led to an accurate violation determination. In each case it appears that MPCA is not fully reporting.
	Explanation	MPCA has reported no major and only one minor facility with a Single Event Violation. No unresolved compliance or permit schedule violations were reported. MPCA also does not consistently make accurate compliance determinations in their inspection reports. However, OTIS reports that only 31.6 % of MPCA’s major facilities had discharge monitoring report violations while the national average is 52.9%.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 7A1C – OTIS reports 0 SEVs at majors. • Data Metric 7A2C – OTIS reports 1SEV at non-majors. MPCA reports no discrepancies. • Data Metric 7B0C – 0 facilities have unresolved compliance schedule violations. • Data Metric 7C0C – 0 of 0 facilities (0%) have unresolved permit schedule violations. • Data Metric 7D0C – 31.6% of major facilities have DMR violations. • File Metric 7e - 25 out of 30 inspection reports (83%) led to accurate compliance determinations.
	State Response	<p>The MPCA has never managed SEVs in ICIS. Procedures will be developed to manage SEVs internally and externally.</p> <p>SEVs do not apply to minor facilities.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, in addition to data entry actions identified under Elements 1, 2, and 3, MPCA must review national Single Event Violation (SEV) guidance and develop a plan that addresses identification and resolution of compliance schedule, permit schedule, and documentation of SEVs in the national data base (ICIS). • By 90 days of the date of the final report, solutions to identified issues that are included in the plan must be written into MPCA policy. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

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	This finding is a(n)	<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
Finding		Three of four inspection files (75%) reviewed included SEVs that were accurately identified as SNC and zero of three identified SEVs (0%) were reported timely. MPCA’s SNC rate is 3.2%, which is lower than the national average and this is a positive indicator; however, it appears that some SEVs were not being reported and/or appropriately being identified as SNC.
Explanation		State SNC rate is less than the national average, which is a positive indicator. However, during the file review, the Region observed that some SEVs were not being reported and/or appropriately being identified as SNC. This may artificially lower MPCA’s SNC rate.
Metric(s) and Quantitative Value(s)		<ul style="list-style-type: none"> • Data Metric 8A1C – 3 major facilities were in SNC. • Data Metric 8A2C – MPCA SNC rate (3.2%) is less than the national average (23%). • File Metric 8b – 3 of 4 inspection files reviewed (75%) included SEVs that were accurately identified as SNC. • File Metric 8c – 0 of 3 identified SEVs (0%) were reported timely.
State Response		The MPCA has never managed SEVs in ICIS. Procedures will be developed to manage SEVs internally and externally.
Recommendation(s)		<ul style="list-style-type: none"> • By 60 days of the date of the final report, in addition to data entry actions identified under Elements 1, 2, and 3, MPCA must review national SEV guidance and develop a plan that addresses identification and resolution of compliance schedule, permit schedule, and documentation of SEVs in the national data base (ICIS). • By 90 days of the date of the final report, solutions to identified issues that are included in the plan must be written into MPCA policy. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	This finding is a(n)	<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

Finding	Three of three enforcement responses (100%) involving SNCs have returned, or will return, the sources to compliance. Twenty of 21 enforcement responses (95%) involving non-SNC violations have returned, or will return, the sources to compliance.
Explanation	Our review found that in 100% of the cases involving SNCs, sources were brought, or will have been brought, back into compliance. In 95% of the cases involving non-SNCs, the sources were brought, or will have been brought, back into compliance.
Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 9b – 3 of 3 files enforcement responses involving SNCs (100%) have returned, or will return, the sources to compliance. • File Metric 9c - 20 of 21 enforcement responses involving non-SNC violations (95%) have returned, or will return, the sources to compliance.
State Response	State did not provide a comment.
Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Element 10 — Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	This finding is a(n)	<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
Finding	Zero of three files reviewed (0%) have enforcement responses that address SNC in a timely manner. Onsite file reviews show violations that were SNC were not addressed in a timely manner.	
Explanation	Zero of three files reviewed (0%) have enforcement responses that address SNC in a timely manner. While OTIS reports timely action on a majority of cases, our file reviews show that violations that are SNC are being addressed but not in a timely manner.	
Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 10A0C – 3.2% of facilities did not have timely action. • File Metric 10b – 0 of 3 files reviewed (0%) have enforcement responses that address SNC in a timely manner • File Metric 10c – 3 of 3 files reviewed with SNC (100%) have enforcement responses that are appropriate. • File Metric 10d – 21 of 21 files reviewed with non-SNC (100%) have enforcement responses that are appropriate. • File Metric 10e – 15 of 20 files reviewed (75%) have enforcement responses that address non-SNC in a timely manner 	
State Response	For the three files reviewed, significant non-complier (SNC) violations were not addressed in a timely manner. MPCA will remind staff of timelines identified in	

		EPA's May 29, 2008, memorandum "Clarification of timely and appropriate response for SNC violations". This memorandum was placed on the MPCA Inspectors Website for guidance to staff in response to the 2007 SRF.
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA should review national guidance for identifying, inputting and addressing SNC violations, and develop procedures to ensure that SNC violations are addressed in a timely manner. • By 90 days of the date of the final report, developed procedures to ensure timeliness must be written into MPCA policy. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

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.

		<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
11-1	This finding is a(n)	
	Finding	MPCA has improved penalty documentation practices since Round 1 SRF.
	Explanation	Eleven of 11 cases (100%) reviewed with penalties appropriately considered gravity and economic benefit.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Metric 11a – 11 out of 11 cases reviewed with penalties (100%) appropriately considered gravity and economic benefit.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

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.

		<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
12-1	This finding is a(n)	

	Finding	MPCA has improved penalty documentation practices since Round 1 SRF.
	Explanation	Seven of eight files (88%) that contained penalties documented the difference between the initial and final penalty. Eight of nine penalty cases (89%) documented collection of penalties.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 12a – 7 of 8 files that contained penalties (88%) documented the difference between the initial and final penalty. • File Metric 12b – 8 of 9 penalty cases (89%) documented collection of penalties.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Resource Conservation and Recovery Act Program

Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.		
1-1	This finding is a(n)	<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
	Finding	Review of 16 data metrics under Element 1 shows that 13 were not complete.
	Explanation	Data issues are primarily due to a set of data flags that do not allow data to move from RCRAInfo to OTIS. MPCA has set these flags to prevent a release of enforcement-confidential data that MPCA believes is prohibited by an interpretation of state law. (See NOTE on page 5 of this report).
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> 3 of 16 MDRs under Element 1 were complete.
	State Response	These data are withheld from Online Tracking Information System (OTIS) because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> By 60 days of the date of the final report, MPCA, EPA HQ, and EPA Region 5 should meet to determine any options that might be available in regard to reporting enforcement data given the interpretation of state law. Any solution(s) will be implemented by 120 days of the date of the final report. Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.

Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.		
2-1	This finding is a(n)	<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
	Finding	A review of the three data metrics pulled from OTIS under Element 2 shows that two of the MDRs were accurate. The file review shows that 20 of 31 files had data that was accurately reflected in RCRAInfo/OTIS.

	Explanation	Data issues are primarily due to a set of data flags that do not allow data to move from RCRAInfo to OTIS. MPCA has set these flags to prevent a release of enforcement-confidential data that MPCA believes is prohibited by an interpretation of state law. (See NOTE on page 5 of this report).
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • 2 of 3 MDRs under Element 2 were accurate. • File Metric 2c – 21 of 31 files had data that was reflected accurately in RCRAInfo/OTIS.
	State Response	These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

Element 3 — Timeliness of Data Entry: Degree to which the Minimum Data Requirements are timely.

3-1	This finding is a(n)	<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
	Finding	The data metric for timeliness under Element 3 cannot be analyzed because OTIS does not contain accurate information from MPCA.
	Explanation	Data issues are primarily due to a set of data flags that do not allow data to move from RCRAInfo to OTIS. MPCA has set these flags to prevent a release of enforcement-confidential data that MPCA believes is prohibited by an interpretation of state law. (See NOTE on page 5 of this report).
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 3A0S – 2 of 5 SNCs (40%) were entered 60 days after designation.
	State Response	These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

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

4-1	This finding is a(n)	<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
	Finding	MPCA met two of two commitments for inspections. However, MPCA only met one of two non-inspection commitments.
	Explanation	<p>MPCA conducted inspections at a 12 Treatment, Storage, and Disposal Facilities (TSDFs), which meets the commitment to conduct inspections at half the TSDFs every year (24). Under a RCRA Flexibility Plan for FY09, MPCA conducted inspections at 55 LQGs (or LQG-equivalent sites) in conjunction with Region 5, which meets the goal of conducting 20% of the LQG universe in a year (54 inspections, or 20% of 272).</p> <p>In regard to non-inspection commitments, MPCA is addressing violations according to its response policy, but it is not entering data into RCRAInfo in a manner that would allow it to be public (and therefore timely as a commitment in the MPCA EnPPA states.)</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 4a – MPCA has met two of two inspection commitments. • File Metric 4b – MPCA has met one of two non-inspection commitments.
	State Response	These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	<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
	Finding	MPCA met national goals for conducting inspections at TSDFs and LQGs in a single fiscal year. However, MPCA is not conducting inspections at 100% of LQGs over five years as required by national policy.

	Explanation	<p>MPCA conducted inspections at a 12 Treatment, Storage, and Disposal Facilities (TSDFs), which meets the commitment to conduct inspections at half the TSDFs every year (24). Under a RCRA Flexibility Plan for FY09, MPCA conducted inspections at 55 LQGs (or LQG-equivalent sites) in conjunction with Region 5, which meets the goal of conducting 20% of the LQG universe in a year (54 inspections, or 20% of 272).</p> <p>According to data provided by MPCA, it has conducted inspections at only 67.4% of LQGs over five years, which is below the goal of 100%. It is possible that inspections allowed at LQG-equivalent sites under a RCRA Flexibility Plan account for some of this difference.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 5A0C – According to OTIS, 12 of 13 TSDFs (92.3%) were inspected over two years by a combination of MPCA and Region 5. MPCA reports 27 of 27 (100%) • Data Metric 5B0C – According to OTIS, 37 of 203 LQGs (18.2%) were inspected over one year by a combination of MPCA and Region 5. MPCA reports 39 of 264 (14.8%) • Data Metric 5C0C – According to OTIS, 143 of 203 LQGs (70.4%) were inspected over five years. MPCA reports 163 of 242 (67.4%)
	State Response	<p>This data is misleading because the large quantity generator (LQG) universe is fluid. The fact that 163 of 264 LQGs received compliance evaluation inspections (CEI)Is over a five-year period does not necessarily mean any single LQG went more than five years without a CEI. While there were in fact a number of LQGs that did go more than five years without a CEI, this was due to LQG inspection coverage being impacted by the transfer of compliance and enforcement resources to hospital inspections under the then-existing Flexibility Plan. By the end of FFY 2012, the number of LQGs in Minnesota that will have gone five years without a CEI should be zero.</p>
	Recommendation(s)	<ul style="list-style-type: none"> • By 60 days of the date of the final report, MPCA will create a plan designed to ensure completion of inspections at 100% of LQGs over five years.

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.

6-1	This finding is a(n)	<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
	Finding	<p>Twenty-six of 28 inspection reports (93%) were complete and had enough information to make a compliance determination. Twenty-seven of 28 inspection reports (96%) were timely.</p>

	Explanation	<p>Inspection reports are generally complete and timely. However, there is room for improvement in the reports. – such as typing narratives, fully completing checklists, not using pencil, and adding inspector signatures to the narrative or checklist.</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in this area on its own without a recommendation. Region 5 will monitor progress in the future.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 6b – 26 of 28 inspection reports (93%) were complete and had enough information to make a compliance determination. • File Metric 6c – 27 of 28 inspection reports (96%) were timely (within the 45 days negotiated by the state and Region).
	State Response	State did not provide a comment
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

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.

7-1	This finding is a(n)	<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
	Finding	MPCA’s violation identification rate is 69.9% according to OTIS. According to the file review, 96% of inspection reports had accurate compliance determinations and 93% of the determinations were reported within 150 days of Day Zero.
	Explanation	MPCA generally has accurate and timely compliance determinations. However, data issues as described under Elements 1, 2, and 3 prevent an accurate violation determination rate from getting into OTIS.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 7C0S – MPCA’s violation identification rate is 69.9%. According to MPCA, the percentage should be higher. • File Metric 7a – 27 of 28 inspection reports (96%) appeared to have accurate compliance determinations. • File Metric 7b – 25 of 27 violation determinations (93%) were reported within 150 days of Day Zero.
	State Response	These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAinfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

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	This finding is a(n)	<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
	Finding	OTIS shows that MPCA has a SNC rate of 1.1%, which is less than half the national average. Twenty of 23 files (87%) were accurately determined to be SVs or SNCs.
	Explanation	<p>Although the file review showed good results in regard to accurate SV/SNC determinations, MPCA’s SNC rate was less than half the national average, which is an indicator of possible issues. A subsequent pull of OTIS data for FY 2010, however, shows greater than half the national average.</p> <p>Six files in the file review contained formal actions for violations, which is a good indicator of violation response – but two of the six cases were not classified as SNC. MPCA should classify such cases correctly, even though an appropriate response is being used.</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in this area on its own without a recommendation. Region 5 will monitor progress in the future.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 8A0S – OTIS reports that MPCA has a SNC rate of 1.1%. • File Metric 8d – 20 of 23 files (87%) were accurately determined to be SVs or SNCs.
	State Response	These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAinfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Element 9 — Enforcement Actions Promote Return to Compliance: Degree to which 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	This finding is a(n)	<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

	Finding	Two of two SNCs (100%) were returned to compliance and 21 of 21 SVs (100%) were returned to compliance.
	Explanation	MPCA is returning all violators to compliance.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 9b – 2 of 2 SNCs (100%) were returned to compliance. • File Metric 9c – 21 of 21 SVs (100%) were returned to compliance.
	State Response	State did not provide a comment.
	Recommendation(s)	<ul style="list-style-type: none"> • No action needed.

Element 10 — Timely and Appropriate Action: Degree to which state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	This finding is a(n)	<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
	Finding	OTIS reported 0% of SNCs had formal actions or a referral taken within 360 days. In regard to the file review, 20 of 23 enforcement actions (87%) were taken in a timely manner, while 21 of 23 actions (91%) were appropriate.
	Explanation	<p>Both the data and file reviews point to issues with timeliness of enforcement actions, although some of this could be attributed to data not getting into OTIS as described under Element 1, 2, and 3.</p> <p>MPCA actions generally appear appropriate. As noted under Element 8, however, two actions should have been classified as SNCs despite the fact that they received formal actions as required for SNCs.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 10A0S – According to OTIS, 0% of SNCs had formal actions or a referral taken within 360 days. • File Metric 10c – 20 of 23 enforcement actions (87%) were taken in a timely manner. • File Metric 10d – 21 of 23 enforcement actions (91%) were appropriate.
	State Response	State did not provide a comment

	Recommendation(s)	<ul style="list-style-type: none"> • Timeliness issues in regard to data entry problems will be resolved by recommendations listed under Elements 1, 2, and 3. • By 60 days of the date of the final report, MPCA and Region 5 will investigate whether resolution of data entry problems has addressed the majority if timeliness issues. If not, MPCA will create a plan within 90 days to address these issues. • Progress will be monitored by the region and steps will be taken as necessary to review implementation of recommended actions.
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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	This finding is a(n)	<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
	Finding	Five of six cases (83%) had penalty calculations that considered and included gravity and economic benefit where appropriate.
	Explanation	<p>One of the reviewed cases did not contain any documentation in regard to the economic benefit.</p> <p>Region 5 still considers it problematic that Administrative Penalty Orders are limited to a \$10,000 penalty in Minnesota. This does not allow for a robust economic benefit calculation or multi-day component for the penalties associated with the Orders.</p> <p>This finding is only an area of concern because the Region believes that MPCA can improve performance in regard to penalty calculation documentation on its own without a recommendation. Region 5 will monitor progress in the future.</p>
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • File Metric 11a – 5 of 6 cases (83%) had penalty calculations that considered and included gravity and economic benefit where appropriate.
	State Response	The \$10,000 limit on Administrative Penalty Orders is outside the MPCA's direct control. It is a statutory cap enacted by the Minnesota Legislature.
	Recommendation(s)	<ul style="list-style-type: none"> • No action required.

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	This finding is a(n)	<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
	Finding	No penalties were recorded in OTIS for MPCA. However, the file review shows that in six cases, penalties were assessed and collected.
	Explanation	Penalties are being assessed and collected by MPCA, but none of this data is getting into OTIS as a probable result of data issues discussed under Elements 1, 2, and 3.
	Metric(s) and Quantitative Value(s)	<ul style="list-style-type: none"> • Data Metric 12A0S – No penalties were found for MPCA in OTIS • Data Metric 12B0S – According to OTIS, no final formal actions contained a penalty. • File Metric 12a – this metric could not be assessed because for each of the penalty cases reviewed, the initial and final penalties were the same. • File Metric 12b – 6 of 6 penalty files (100%) contained documentation indicating that a penalty was collected.
	State Response	OTIS reported no penalties because the MPCA did not, and does not, have the ability to translate penalty data from Delta to RCRAinfo. Penalty data is now being directly entered by MPCA staff into RCRAinfo.
	Recommendation(s)	<ul style="list-style-type: none"> • See Recommendations for Element 1.

V. ELEMENT 13 SUBMISSION

MPCA did not submit an Element 13 request.

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Minnesota's compliance and enforcement programs, Region 5 and MPCA 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
MN - Round 1	Completed	9/30/2007	CAA	Timely & Appropriate Actions, Penalty Calculations	HPV cases not resolved in a timely manner.	Provide plan for better tracking of case completion and entering into AFS.
MN - Round 1	Completed	9/30/2007	CAA	Timely & Appropriate Actions	Penalties not enough for deterrence.	Submit plan to address proper use of penalty tools for compliance.
MN - Round 1	Long Term Resolution	12/31/2011	CAA	Violations ID'ed Appropriately	Inspection Reports not complete.	Hold discussions to agree on contents of inspection report.
MN - Round 1	Completed	12/30/2007	CAA	Violations ID'ed Timely	Inspection Reports not dates or timely.	Provide plan to address dating and timeliness of inspection reports.
MN - Round 1	Completed	12/30/2007	CAA	SNC Accuracy	HPV and non-HPV cases not reported properly.	Record HPV and non-HPV cases properly to AFS.
MN - Round 1	Completed	12/31/2007	CAA	SNC Accuracy	Non-HPV reasoning not given.	Provide reasoning for non-HPV determination on Case Development Form.
MN - Round 1	Completed	12/30/2007	CAA	SNC Accuracy, Data Timely, Data Accurate, Data Complete	All data not being reported to AFS.	Report all compliance data to AFS.
MN - Round 1	Completed	12/31/2009	CAA	Penalties Collected	Penalties not reported correctly for multimedia cases.	Ensure penalties are reported correctly for multimedia cases.
MN - Round 1	Completed	12/31/2009	CWA	Other	Need inspection strategy.	Submit inspection strategy to Region 5.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Data Accurate	QNCR and Watchlist not accurate.	Implement data quality procedures to ensure that enforcement actions are linked to violations. Follow-up Note: R5 will review as part of Round 2.
MN - Round 1	Completed	12/31/2009	CWA	Penalty Calculations	Inspection Reports not complete.	Hold discussions to agree on contents of inspection report.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Appropriately	Files not complete.	Include link to file procedures in inspection manual. Follow-up Note: MPCA submitted an inspection manual to EPA for review. R5 is reviewing as part of Round 2 SRF.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Penalty Calculations	All penalty calculations not documented.	Calculations of penalties should be included in files. Follow-up Note: MPCA provided a template penalty calculation worksheet for EPA review. R5 will check on implementation of the worksheet as part of Round 2 review.
MN - Round 1	Completed	12/30/2007	CWA	Penalty Calculations	Penalty data not in PCS.	Enter all penalties into PCS.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Appropriately	Inspection content not complete.	Submit state inspection manual to Region 5 for review. Follow-up Note: MPCA provided an inspection review document that describes the required content for inspection reports. R5 is reviewing as part of Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Violations ID'ed Timely	Inspection reports not timely.	Inspection manual should include report turnaround time. Follow-up Note: MPCA's revised inspection

						manual provides for prompt communication of inspection results to regulated parties. R5 will review as part of the Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Timely & Appropriate Actions	AEL above joint goal.	Include SNC enforcement timelines in revised ERP for major facilities. Follow-up Note: MPCA has indicated that they have created a document that addresses the issue of SNC enforcement timelines. R5 will check on implementation of document in the Round 2 review.
MN - Round 1	Long Term Resolution	12/31/2011	CWA	Return to Compliance	SEV data needs to be in database.	Include provisions for transfer of SEV data into ICIS-NPDES plan. Follow-up Note: MPCA has been working on better data entry and translation capability. R5 will check on the status of this during the Round 2 review.
MN - Round 1	Completed	9/29/2007	RCRA	SNC Accuracy	Violation date issues.	Develop a procedure to determine date of actual violations.
MN - Round 1	Completed	9/30/2007	RCRA	SNC Accuracy	Violations removed improperly.	Discontinue practice of removing violations from Delta that are in a LOW or NOV.
MN - Round 1	Completed	9/30/2007	RCRA	Penalty Calculations	All penalty calculations not documented.	Calculations of penalties should be included in files.
MN - Round 1	Completed	12/31/2009	RCRA	Insp Universe	Data not synchronized in EPA and MPCA systems.	Create ad hoc committee to review data discrepancies.
MN - Round 1	Completed	12/31/2007	RCRA	Violations ID'ed Appropriately	Inspection Reports not complete.	Hold discussions to agree on contents of inspection report.
MN - Round 1	Completed	12/31/2007	RCRA	Violations ID'ed Timely	Inspection Reports do not have completion timeframe.	Establish specific timeframe for completion of inspection reports.
MN - Round 1	Completed	12/31/2007	RCRA	Return to Compliance	Cases files missing information.	Review 2 unresolved cases to ensure closure or add documentation.

APPENDIX B: OFFICIAL DATA PULL

See Appendix E.

APPENDIX C: PDA TRANSMITTAL LETTER

Appendices C, D, and E provide 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 the on-site 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 metric results.

This section, Appendix C, contains the letter transmitting the results of the Preliminary Data Analysis to the state. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

Paul Aasen
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, Minnesota 55155-4194

Dear Mr. Aasen:

On May 25, 2010, the U.S. Environmental Protection Agency sent the Minnesota Pollution Control Agency a letter stating its intention to begin a review of your enforcement programs under the State Review Framework. Thank you for sending us your response to the official data metric results that accompanied the letter, as well as state policies that pertain to the SRF.

We analyzed the data against set goals and commitments and are now providing you the results. Please note that the 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 the ongoing discussions with you and your staff.

As part of our data analysis, we are also providing a list of files for the file reviews. For the Clean Air Act and Resource Conservation and Recovery Act reviews, we used the file selection tool in EPA's Online Tracking Information System. For the Clean Water Act review, we chose files using the SRF File Selection Protocol from information in ICIS-NPDES. The enclosure explains our file selection process in more detail.

If you have any questions or issues, feel free to contact me at 312-886-3000, or your staff may contact Alan Walts at 312-353-8894 or walts.alan@epa.gov.

Sincerely,

Bharat Mathur
Deputy Regional Administrator

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 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 or areas of exemplary performance are identified. (The full PDA worksheet in Appendix E contains every metric: positive, neutral, or negative.) Initial Findings indicate the observed results. Initial Findings are preliminary observations. They are used as a basis for further investigation that takes place during the file review and through dialogue with the state. Final 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 this report.

Clean Air Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MN State Metric	Initial Findings
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			347	Greater than 10% discrepancy. Though this should have been maintained, PCA is currently updating.
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			17	Minimum data requirement is not tracked
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			104	Minimum data requirement is not tracked
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			87	Minimum data requirement is not tracked
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			95	This is a minimum data requirement which AQ Delta doesn't track.
A01C4S	CAA Subpart Designations: % NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	84.3%	0.0%	Calculates based on A01C1S entry. If A01C1S is not provided, then A01C4S is consequently zero.
A01C5S	CAA Subpart Designations: % NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	46.2%	0 / 0	Calculates based on A01C2S entry. If A01C2S is not provided, then A01C5S is consequently zero.

A01C6S	CAA Subpart Designations: % MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.5%	100.0%	Calculates based on A01C3S entry. If A01C3S is not provided, then A01C6S is consequently zero.
A03A0S	% HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	31.7%	29.7%	Did not meet goal for timeliness.
A03B1S	% Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.2%	27.1%	Did not meet goal for timeliness.
A03B2S	% Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	66.5%	76.1%	Did not meet goal for timeliness.
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	68.7%	less than national average and goal
A08D0S	% Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.8%	78.8%	Not meeting the goal of <1/2 national average.
A10A0S	% HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		35.2%	45.9%	High number of HPVs not meeting timeliness goal.

Clean Water Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MN State Metric	Initial Findings
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	Appears low. Data must be entered.
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		50.0%	Below national data quality goal
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			18.1%	Based on Discrepancies identified by MPCA data may not be translating appropriately
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	Value appears low.

RCRA

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	MN State Metric	Initial Findings
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			287	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			65	See R01C1S
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	86.2%	61.5%	See R01C1S
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			4	See R01C1S
R08B0S	% of SNC determinations made within 150 days (1 FY)	Goal	State	100%	75.0%	0.0%	See R01C1S
R08C0S	% of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	60.5%	13.0%	See R01C1S
R10A0S	% of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	43.3%	0.0%	See R01C1S
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			23	See R01C1S
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$0	See R01C1S
R12B0S	% of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	77.3%	0.0%	See R01C1S
R12B0C	% of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	76.2%	50.0%	See R01C1S
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			13	See R01C1S

R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			202	See R01C1S
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			203	See R01C1S
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			97	See R01C1S
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			93	See R01C1S
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			43	See R01C1S
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			45	See R01C1S
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			1	See R01C1S
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			22	See R01C1S
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			23	See R01C1S
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$0	See R01C1S
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			165	See R01C1S
R03A0S	% SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			40.0%	See R01C1S
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	25.0%	15.8%	See R01C1S
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			10.2%	See R01C1S
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			532	See R01C1S
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			23	See R01C1S
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			9	See R01C1S
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			69.9%	See R01C1S
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	1.1%	See R01C1S

APPENDIX E: PDA WORKSHEET (with State and EPA Comments)

CAA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			302	NA	NA	NA	302	NA	NA	NA						
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			302	NA	NA	NA	302	NA	NA	NA	Yes	283	AQ Delta		Appears Acceptable	
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			298	NA	NA	NA	298	NA	NA	NA						
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			298	NA	NA	NA	298	NA	NA	NA	Yes	283	AQ Delta		Appears Acceptable	
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			347	NA	NA	NA	342	NA	NA	NA						
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			347	NA	NA	NA	342	NA	NA	NA	Yes	239	AQ Delta		Potential Concern	Greater than 10% discrepancy. Though this should have been maintained, PCA is currently updating.
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			17	NA	NA	NA	17	NA	NA	NA						
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			17	NA	NA	NA	17	NA	NA	NA	N/A	N/A	N/A		Potential Concern	Minimum data requirement is not tracked

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			54	NA	NA	NA	54	NA	NA	NA						
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			54	NA	NA	NA	54	NA	NA	NA	N/A	N/A	N/A		Appears Acceptable	
A01C1C	CAA Subprogram Designations: NSPS (Current)	Data Quality	Combined			104	NA	NA	NA	104	NA	NA	NA						
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			104	NA	NA	NA	104	NA	NA	NA	N/A	N/A	N/A		Potential Concern	Minimum data requirement is not tracked
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Combined			87	NA	NA	NA	87	NA	NA	NA						
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			87	NA	NA	NA	87	NA	NA	NA	N/A	N/A	N/A		Potential Concern	Minimum data requirement is not tracked
A01C3C	CAA Subprogram Designations: MACT (Current)	Data Quality	Combined			95	NA	NA	NA	94	NA	NA	NA						
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			95	NA	NA	NA	94	NA	NA	NA	N/A	N/A	N/A		Potential Concern	This is a minimum data requirement which AQ Delta doesn't track.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	84.3%	0.0%	0	2	2	0.0%	0	2	2	N/A	N/A	N/A		Potential Concern	Calculates based on A01C1S entry. If A01C1S is not provided, then A01C4S is consequently zero.
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	46.2%	0 / 0	0	0	0	0 / 0	0	0	0	N/A	N/A	N/A		Potential Concern	Calculates based on A01C2S entry. If A01C2S is not provided, then A01C5S is consequently zero.
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	90.4%	50.0%	1	2	1	50.0%	1	2	1	N/A	N/A	N/A			
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.5%	100.0%	1	1	0	100.0%	1	1	0	N/A	N/A	N/A		Potential Concern	Calculates based on A01C3S entry. If A01C3S is not provided, then A01C6S is consequently zero.
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			151	NA	NA	NA	151	NA	NA	NA	Yes	153	CDS	AFS includes one FCE (SUZLON ROTOR) that is actually a PCE	Appears Acceptable	
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			153	NA	NA	NA	153	NA	NA	NA	Yes	153	CDS	AFS includes one FCE (SUZLON ROTOR) that is actually a PCE	Appears Acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			171	NA	NA	NA	171	NA	NA	NA	N/A	N/A	N/A		Appears Acceptable	
A01E0C	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined			237	NA	NA	NA	237	NA	NA	NA	N/A	N/A	N/A			
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			234	NA	NA	NA	234	NA	NA	NA	N/A	N/A	N/A		Appears Acceptable	
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			122	NA	NA	NA	119	NA	NA	NA	Yes	119	Enforcement Database		Appears Acceptable	
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			111	NA	NA	NA	110	NA	NA	NA	Yes	113	Enforcement Database		Appears Acceptable	
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			37	NA	NA	NA	36	NA	NA	NA	Yes	N/A	N/A		Appears Acceptable	
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			36	NA	NA	NA	36	NA	NA	NA	Yes	N/A	N/A		Appears Acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	49.3%	43.2%	16	37	21	44.4% ***	16	36	20	N/A	N/A	N/A	*** Please note: 28 of 29 pathways have discovery dates (96.5%), 12 Discovery dates were entered as action type = '00' with action description = 'File Review', Federal cases were excluded from this statistic	minor issue	State was using a "user defined" action which AFS couldn't track. The state immediately corrected when we discussed this with them. It should no longer be an issue.
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	74.9%	100.0%	37	37	0	100.0%	36	36	0	No	N/A	N/A		Appears Acceptable	
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	78.5%	100.0%	37	37	0	100.0%	36	36	0	No	N/A	N/A		Appears Acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A0111S	Formal Action: Number Issued (1 FY)	Data Quality	State			93	NA	NA	NA	93	NA	NA	NA	No	89	Enforcement Database		Appears Acceptable	
A0112S	Formal Action: Number of Sources (1 FY)	Data Quality	State			85	NA	NA	NA	85	NA	NA	NA	No	84	Enforcement Database		Appears Acceptable	
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	\$	State			\$585,944	NA	NA	NA	\$590,694	NA	NA	NA		\$519,729		penalties were forgiven, rescinded or written off - Cols G & K are assessed amts while Col P is actual \$ paid	Appears Acceptable	
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		12	NA	NA	NA	12	NA	NA	NA	N/A	N/A	N/A		minor issue	low number but not zero
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	59.9%	55.6%	45	81	36	55.6%	45	81	36	N/A	N/A	N/A			
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	59.8%	49.4%	39	79	40	49.4%	39	79	40	N/A	N/A	N/A		Appears Acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.5%	0.5%	1	217	216	0.5%	1	213	212					Appears acceptable	
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			9	NA	NA	NA	9	NA	NA	NA					Appears acceptable	
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	31.7%	29.7%	11	37	26	30.6%	11	36	25					potential concern	Did not meet goal for timeliness.
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	52.2%	27.1%	259	957	698	27.2%	259	953	694					potential concern	Did not meet goal for timeliness.
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	66.5%	76.1%	134	176	42	79.1%	136	172	36					potential concern	Did not meet goal for timeliness.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	87.8%	98.3%	283	288	5	98.3%	283	288	5						
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	87.6%	98.3%	283	288	5	98.3%	283	288	5					appears acceptable	
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	83.4%	93.7%	284	303	19	93.7%	284	303	19						
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	83.1%	93.7%	284	303	19	93.7%	284	303	19					appears acceptable	
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.5%	27.3%	73	267	194	27.3%	73	267	194						
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	83.1%	27.3%	73	267	194	27.3%	73	267	194					appears acceptable	
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.4%	68.7%	184	268	84	68.7%	184	268	84						

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	68.7%	184	268	84	68.7%	184	268	84					potential concern	less than national average and goal
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.0%	78.7%	281	357	76	79.8%	281	352	71						
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.8%	78.7%	281	357	76	79.8%	281	352	71					Appears Acceptable	
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.6%	1.4%	23	1,613	1,590	1.4%	23	1,613	1,590					Appears Acceptable	
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			3	NA	NA	NA	3	NA	NA	NA						
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			3	NA	NA	NA	3	NA	NA	NA					Appears Acceptable	
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA	0	NA	NA	NA					Appears Acceptable	
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.9%	99.6%	262	263	1	99.6%	262	263	1					Appears Acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.8%	50.7%	139	274	135	51.1%	139	272	133					Appears Acceptable	
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	33.3%	0 / 0	0	0	0	0 / 0	0	0	0						
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.7%	50.0%	5	10	5	50.0%	5	10	5					Appears Acceptable	
A08A0E	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.8%	2.0%	6	302	296	2.0%	6	302	296						
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.8%	8.6%	26	302	276	8.6%	26	302	276					Appears Acceptable	
A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.0%	0	347	347	0.0%	0	342	342						

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	Current State Count	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.6%	2.3%	8	347	339	2.3%	8	342	334					Appears Acceptable	
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.9%	83.3%	25	30	5	83.3%	25	30	5					Appears Acceptable	
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.8%	78.8%	26	33	7	78.8%	26	33	7					Potential Concern	Not meeting the goal of <1/2 national average.
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	42.6%	72.2%	13	18	5	72.2%	13	18	5					Appears Acceptable	
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		35.2%	45.9%	34	74	40	46.6%	34	73	39					Potential Concern	High number of HPVs not meeting timeliness goal.
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			94	NA	NA	NA	93	NA	NA	NA					Appears Acceptable	
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.9%	87.5%	28	32	4	87.5%	28	32	4					Appears Acceptable	

CWA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	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			95	NA	NA	NA	95	NA	NA	NA	No	No	Delta & PCS	N/A	Appears acceptable	
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	0	NA	NA	NA	No	N/A	Delta & PCS	N/A	Appears acceptable	
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			674	NA	NA	NA	674	NA	NA	NA	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS	NOTE:***Facilities that are the jurisdiction of the EPAs are showing up, we do not have direct management & regulation over some of these facilities.	Appears acceptable	
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			447	NA	NA	NA	447	NA	NA	NA	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS		Appears acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=: 95%	89.8%	95.8%	91	95	4	95.8%	91 92	95	4 3	YES	NO - EPA NEEDS TO MAKE CORRECTION on this Report	DELTA & PCS	When the final data was frozen for this report, ACS MN0001929 was getting reissued in PCS - the limits are coded correctly in PCS, this facility should not be showing up. The 3 other facilities that are showing up should stay as stated below: Minneapolis Stormwater & St. Paul Stormwater: are major permits without traditional limits & monitoring requirements, and therefore do not submit DMRs. There are no limits to be coded on these two facilities. Minnesota River Valley PUC was issued in September 2006, and is not constructed yet. The limits & monitoring requirements will be added upon completion of construction & initiation of operation.	Appears acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=: 95%	94.6%	99.8%	660	661	1	99.8%	660	661	1	YES	All data seems to be up to date in Delta & PCS, not sure which DMR is missing from Northshore Mining?	Delta & PCS	MPCA could not reproduce this discrepancy	Appears acceptable	
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=: 95%	93.3%	88.3%	83	94	11	88.3%	83	94	11	Yes	What quarter is being review? All data seems to be up to date in Delta & PCS, no sure what is missing?	Delta & PCS	MPCA could not reproduce this discrepancy	Appears acceptable	
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			20.0%	1	5	4	20.0%	1	5	4	NO	NO	Delta & PCS	Stewartville was going from Minor to Major, previous violations that should not have been SNCs were showing up so we had to override this.	Appears acceptable	
W01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			3.0%	20	674	654	3.0%	20	674	654	NO	NO		NOTE:***Facilities that are the jurisdiction of the EPAs are showing up, we do not have direct management & regulation over some of these facilities.	Appears acceptable	Not required

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	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			62.2%	74	119	45	62.2%	74 ***The data from the dropdown is only stating there are 18, not 74	119	45 ***The data from the dropdown is stating there are only 12, not 45	Yes	NO - EPA NEEDS TO MAKE CORRECTION on this Report		NOTE:***Facilities that are the jurisdiction of the EPAs are showing up, we do not have direct management & regulation over some of these facilities.	Appears acceptable	Not required
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			2.7%	18	676	658	2.7%	18	676	658	NO	No		NOTE:***Facilities that are the jurisdiction of the EPAs are showing up, we do not have direct management & regulation over some of these facilities.	Appears acceptable	Not required
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			7.4%	50	674	624	7.4%	50	674	624	Yes		Delta	The MPCA doesn't manage any of the our non-major DMR data in PCS. Non compliance ratings and specific non compliance data with regards to non-majors would need to be provided by the MPCA.	Appears acceptable	Not required

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0	0 / 0	0	0	0	Yes		Delta	The MPCA doesn't manage any of the our non-major DMR data in PCS. Non compliance ratings and specific non compliance data with regards to non-majors would need to be provided by the MPCA.	Appears acceptable	Not required
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			296	NA	NA	NA	296	NA	NA	NA	Yes		Delta	The MPCA doesn't manage any of the our non-major DMR data in PCS. Non compliance ratings and specific non compliance data with regards to non-majors would need to be provided by the MPCA. Is appears that these data may include the small number of MN minor facilities for which the EPA is responsible.	Appears acceptable	Not required

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	0	NA	NA	NA	No	No	Delta & PCS & MPCA Enf Database	Informal enforcement actions are not tracked in PCS	Appears acceptable	Data not required.
W01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	No	No	Delta & PCS & MPCA Enf Database	Informal enforcement actions are not tracked in PCS		
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	0	NA	NA	NA	No	No	Delta & PCS & MPCA Enf Database	Informal enforcement actions are not tracked in PCS	Appears acceptable	Data not required.
W01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	N/A	NA		EPA data		
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	0	NA	NA	NA	No	No	Delta & PCS & MPCA Enf Database	Informal enforcement actions are not tracked in PCS	Appears acceptable	Data not required.
W01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	N/A	na		EPA data		
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	0	NA	NA	NA	No	No	Delta & PCS & MPCA Enf Database	Informal enforcement actions are not tracked in PCS	Appears acceptable	Data not required.
W01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	N/A	N/A		EPA data		
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			6	NA	NA	NA	6	NA	NA	NA	No	N/A	Enforcement DB & PCS		Appears acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	N/A	N/A		EPA data		
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			6	NA	NA	NA	6	NA	NA	NA	No	N/A			Appears acceptable	
W01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA	0	NA	NA	NA	N/A	N/A		EPA data		
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			36	NA	NA	NA	36	NA	NA	NA	No	N/A			Appears acceptable	
W01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			1	NA	NA	NA	1	NA	NA	NA	N/A	N/A		EPA data		
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			37	NA	NA	NA	37	NA	NA	NA	No	N/A			Appears acceptable	
W01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			1	NA	NA	NA	1	NA	NA	NA	N/A	N/A		EPA data		
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			17	NA	NA	NA	17	NA	NA	NA	No	N/A			Appears acceptable	
W01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			1	NA	NA	NA	1	NA	NA	NA	N/A	N/A		EPA data		
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$97,115	NA	NA	NA	\$97,115	NA	NA	NA	No	N/A			Appears acceptable	
W01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$11,000	NA	NA	NA	\$11,000	NA	NA	NA	N/A	N/A		EPA data		

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	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	\$0	NA	NA	NA	N/A	N/A			Potential Concern	Appears low. Data must be entered.
W01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	NA	\$0	NA	NA	NA	N/A	N/A				
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$505,220	NA	NA	NA	\$505,220	NA	NA	NA	No	N/A			Appears acceptable	
W01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$11,000	NA	NA	NA	\$11,000	NA	NA	NA	N/A	N/A		EPA data		
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$97,115	NA	NA	NA	\$97,115	NA	NA	NA	No	N/A			Appears acceptable	
W01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$11,000	NA	NA	NA	\$11,000	NA	NA	NA	N/A	N/A		EPA data		
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=: 80%		50.0%	3	6	3	50.0%	3	6	3	No	N/A			Potential concern	Below national data quality goal
W02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=: 80%		0 / 0	0	0	0	0 / 0	0	0	0	N/A	N/A				

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	64.8%	62.1%	59	95	36	62.1%	59	95	36	No	N/A	Delta & PCS		Appears acceptable	Below national average, however meets CMS req. 100% every two years; with targeting model, one every three years
W05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	2.1%	2	95	93	2.1%	2	95	93	N/A	N/A				
W05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	67.6%	62.1%	59	95	36	62.1%	59	95	36	No	N/A	Delta & PCS		Appears acceptable	
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			21.5%	145	674	529	21.5%	145	674	529	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS	Some inspections that are entered into PCS are not showing up on this SRF Report? See "Delta Inspection Data Majors.xls"	Appears acceptable	Consistent with National CMS(1 every 5 yrs.)
W05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	674	674	0.0%	0	674	674	N/A	N/A				
W05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			21.5%	145	674	529	21.5%	145	674	529	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS	Some inspections that are entered into PCS are not showing up on this SRF Report? See "Delta Inspection Data Minors.xls"	Appears acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	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			18.1%	81	447	366	18.1%	81	447	366	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS	Some inspections that are entered into PCS are not showing up on this SRF Report? See "Delta Inspection Data Minors.xls"	Potential Concern	Based on Descrepancies identified by MPCA data may not be translating appropriately
W05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	447	447	0.0%	0	447	447	N/A	N/A				
W05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			18.1%	81	447	366	18.1%	81	447	366	Yes	Yes ~ data cleanup done 6/8/10	Delta & PCS	Some inspections that are entered into PCS are not showing up on this SRF Report? See "Delta Inspection Data Minors.xls"	Appears acceptable	
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	40	40	0.0%	0	40	40	N/A	N/A			Appears acceptable	
W05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	40	40	0.0%	0	40	40	N/A	N/A				
W05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			0.0%	0	40	40	0.0%	0	40	40	N/A	N/A			Appears acceptable	

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	Universe	Not Counted	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	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	0	NA	NA	NA	N/A	N/A			Potential Concern	Value appears low.
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			1	NA	NA	NA	1	NA	NA	NA	N/A	N/A		EPA data	Appears acceptable	
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		27.6%	0.0%	0	62	62	0.0%	0	62	62	No	No			Appears acceptable	
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.2%	0 / 0	0	0	0	0 / 0	0	0	0	N/A	N/A			Appears acceptable	
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		52.9%	31.6%	30	95	65	31.6%	30	95	65	Yes	No	Delta & PCS	3 Facilities that are showing up on this list are not showing up in our Delta Database, please see the data for the facilities in red under W07DOC	Appears acceptable	
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			3	NA	NA	NA	3	NA	NA	NA	No	No			Appears acceptable	
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.3%	3.2%	3	95	92	3.2%	3	95	92	No	No			Appears acceptable	
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.7%	3.2%	3	95	92	3.2%	3	95	92	No	No			Appears acceptable	

RCRA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			13	NA	13	NA	NA	NA	Yes	None	Delta 23	OTIS took the numbers from "Operating facilities" (13) only. Facilities that have on going Violations are excluded in OTIS.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			202	NA	195	NA	NA	NA	Yes	This will be corrected after the Biennial Report settles, followed by Handlers Translation. In the meantime, the LQG part is manually corrected.	2009 BRS 252	Some Generators that are not LQGs in Delta have been reported as LQGs in the 2009 Biennial Report. They become LQGs in RCRAInfo. OTIS leaves out sites with open Violations.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			1,317	NA	1,318	NA	NA	NA	Yes	Future Handler Translation will fix them	Delta 1362	Number of SQGs are dynamic. Changes occur due to biennial report data translation or other daily changes	Appears acceptable.	
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			18,050	NA	17,909	NA	NA	NA	Yes	None	Delta 23406	Activities such as PCBs, and many others, including Household Hazardous waste sites are included in Delta.	Appears acceptable.	
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			203	NA	196	NA	NA	NA	Yes	2009 Biennial Report is still in progress. Discrepancies will end in September.	Delta 242	The difference is due to Biennial Report, and facilities that have on going Violations are excluded from OTIS	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			97	NA	95	NA	NA	NA	Yes	C M & E Translation will fix this discrepancy	Delta 142	Facilities that have on going Violations are excluded from OTIS. TSDs and LQGs that are evaluated on the same day are counted twice in Delta. They are counted once in RCRAInfo.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			19	NA	19	NA	NA	NA						NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			93	NA	91	NA	NA	NA	Yes	CM & E Translation will fix this.	Delta 130	Facilities that have on going Violations are excluded from OTIS. Followups, case developments and other Evaluations are included in Delta.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			18	NA	18	NA	NA	NA						NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			287	NA	281	NA	NA	NA	Yes	Needs old data cleanup in Delta. Might correct itself with future historical CM&E Translation	Delta 385	Facilities that have on going Violations are excluded in OTIS	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			46	NA	46	NA	NA	NA						NA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			65	NA	63	NA	NA	NA	Yes	The next Translation will correct the data in RCRAInfo which will fix the problem in OTIS	Delta 97	Open Violations are not counted in OTIS.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			11	NA	11	NA	NA	NA						NA
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			43	NA	42	NA	NA	NA	Yes	None	Delta 52	Open Violations are not counted in OTIS	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			15	NA	15	NA	NA	NA						NA
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			45	NA	44	NA	NA	NA	Yes	Will be corrected with new CM& E translation	Delta 53	On going Violations are not counted in OTIS	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			15	NA	15	NA	NA	NA						NA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			1	NA	1	NA	NA	NA	Yes	None	Delta 7	Where this number "1" is coming from is not known. RCRAInfo counts SNY conducted by EPA also.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			1	NA	1	NA	NA	NA			Delta 1			NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			10	NA	10	NA	NA	NA	Yes	None	Delta 7	Data are equal in Delta and RCRAInfo.	Minor issue.	Number depends on when the data was locked.
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			2	NA	1	NA	NA	NA			Delta 1			NA
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			22	NA	21	NA	NA	NA	Yes	None	Delta 28	Data are equal in Delta and RCRAInfo.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			1	NA	1	NA	NA	NA						NA
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			23	NA	21	NA	NA	NA	yes	None	Delta 28	Data are almost equal in Delta and RCRAInfo.	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			2	NA	2	NA	NA	NA						NA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$0	NA	\$0	NA	NA	NA	Yes	Will be corrected in the next CM & E Translation	Delta \$228,226	Currently, Penalties are not translated	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			\$15,000	NA	\$15,000	NA	NA	NA		N/A	N/A	N/A		NA
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	NA	0	NA	NA	NA	No	None	None	No difference	Appears acceptable	
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	0	NA	NA	NA	No	None	None	No difference	Appears acceptable	
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			165	NA	161	NA	NA	NA	Yes	Will be corrected in the next CM & E Translation	Delta 184		Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			23	NA	27	NA	NA	NA						NA

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			40.0%	2	40.0%	2	5	3	Yes	None	71%	Sites with open Violation do not showup in OTIS. Data entry issue	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			100.0%	1	100.0%	1	1	0	No		100%			NA
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	86.2%	61.5%	8	61.5%	8	13	5	Yes		83%	Data entry and handlers Translation is lacking. Will be corrected. 19/23	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	91.3%	92.3%	12	92.3%	12	13	1			100%	27/27 = 100%		See R05A0C
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	25.0%	15.8%	32	15.8%	31	196	165	Yes	None	15%	Sites with open Violation do not showup in OTIS. Data entry issue. 35/242 = 15%	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	27.0%	18.2%	37	18.4%	36	196	160			15%	39/264		See R05B0S

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.5%	58.6%	119	58.7%	115	196	81	Yes	The next Translation might correct the data in RCRAInfo	67%	There might be a difference in what EPA considers CEI and what MPCA considers CEI . 163/242 = 67%		
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.9%	70.4%	143	70.4%	138	196	58			77%	183/242		See R05C0C. Recalculated by MPCA; 77%.
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			10.2%	134	10.2%	134	1318	1184	Yes	The next Translation might correct the data in RCRAInfo	13.90%	There might be a difference in what EPA considers CEI and what MPCA considers CEI . 163/1362 =	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			11.2%	148	11.2%	147	1318	1171			13%	177/1362	Informational only	
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			532	NA	521	NA	NA	NA	Yes	The next Translation might correct the data in RCRAInfo	512	There might be a difference in what EPA considers CEI and what MPCA considers CEI	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			546	NA	534	NA	NA	NA			638		Informational only	
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			23	NA	26	NA	NA	NA	yes	The next Translation might correct the data in RCRAInfo	Delta 33	There might be a difference in what EPA considers CEI and what MPCA considers CEI	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			34	NA	37	NA	NA	NA			Delta 36		Informational only	
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			9	NA	9	NA	NA	NA	Yes		Delta 4		Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			9	NA	9	NA	NA	NA					Informational only	
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			4	NA	6	NA	NA	NA	Unknown	Can't find this data	Can't fid this data	Can't find this data	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			7	NA	9	NA	NA	NA					Informational only	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			69.9%	65	69.2%	63	91	28	Yes		74.10%	92/124	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			61.1%	11	61.1%	11	18	7						NA
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	1.1%	1	1.1%	1	91	90	Yes		1.60%	2/124	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3%	1.8%	2	1.9%	2	108	106						NA
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	75.0%	0.0%	0	0.0%	0	1	1	No	0%		0	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	65.8%	0.0%	0	0.0%	0	1	1						NA
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	60.5%	13.0%	3	14.3%	3	21	18	Yes	None	18%	There were 28 Sites that had Formal Action in 1 FY. There 7 SNC. 5 SNCs had prior formal action	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	70.1%	100.0%	2	100.0%	2	2	0						NA
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	43.3%	0.0%	0	0.0%	0	1	1	No	None	71%	There were 7 SNC Sites in 1 FY. 5 of them have formal/Referral - Enforcement action	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	39.5%	0.0%	0	0.0%	0	2	2	No	None	18%	There were 11SNC Sites in 1 FY. 2 of them have formal Enforcement		See R10A0S
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			23	NA	21	NA	NA	NA	Yes	None	38	There were 38 formal actions, which include referral to Local Government. 24 of them are Formal actions with out referral	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$0	NA	\$0	NA	NA	NA	Yes	Future CM&E translation will correct this	21	Currently Penalties are not translated	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data"flags"used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretationof MN State law that does not allow the public to see information regarding "open" cases.

Metric	Metric Description	Metric Type	Agency	Nat'l Goal	Nat'l Average	MN Metric	Count	MN Metric Frozen	Count Frozen	Universe Frozen	Not Counted Frozen	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	77.3%	0.0%	0	0.0%	0	1	1	Yes	Future CM&E translation will correct this	55%	21/38. Currently Penalties are not translated	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	76.2%	50.0%	1	50.0%	1	2	1	Yes	Future CM&E translation will correct this		Only delta data indicated above can be attributed because Penalties are not translated at this time	Potential concern.	The majority of differences between EPA and MPCA data counts for source universes and compliance/enforcement activities can be attributed to data "flags" used by MPCA that do not allow data to move from RCRAInfo to OTIS. This is the result of an interpretation of MN State law that does not allow the public to see information regarding "open" cases.

APPENDIX F: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) and using a web-based file selection tool (available here: 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

Clean Air Act

Region 5 used the file selection tool in OTIS, which follows the SRF File Selection Protocol. The universe of files (compliance monitoring and enforcement) from which to pick was 567. According to the Protocol, the range of files for a universe that size is 20 to 35. As a result, Region 5 picked 30 files to use for its random, representative file selection. Approximately half of these files focused on compliance monitoring and the remainder focused on enforcement. These files are from a mix of the categories below and are geographically distributed across the state:

- Major sources, synthetic minor sources that emit or have a potential to emit at or above 80%, and federally reportable minor sources
- Full and Partial Compliance Evaluations (FCEs/PCEs)
- Violations and no violations
- Stack tests
- Title V deviations
- High Priority Violations (HPVs) and no HPVs
- Informal and formal actions
- Penalties and no penalties

Clean Water Act

Because of discrepancies of data in OTIS, Region 5 did not use the file selection tool. Instead, Region 5 picked files from ICIS following procedures in the SRF File Selection Protocol. The universe of files (compliance monitoring and enforcement) from which to pick was 700. According to the Protocol, the appropriate amount of files for a universe that size is 25 to 50. As a result, Region 5 picked 19 files to use for its random, representative file selection and 23 supplemental files – for a total of 42 files. The supplemental files were chosen to review files in which informal and formal actions were identified by Minnesota as issued but not recorded in ICIS-NPDES or OTIS. Nineteen of these files focused on compliance monitoring and the remainder focused on enforcement. These files are from a mix of the categories below and are geographically distributed across the state:

For all files, the manner in which the records were selected involved sorting the overall universe into the following categories:

- Majors or Minors
- Inspections or no inspections
- SNCs or no SNCs
- Informal or formal actions
- Different permit types

- Violation and no violations
- Penalties or no penalties
- Geographic location

Once sorted, every sixth or seventh record was randomly chosen from the more populated categories to create the representative file list.

Resource Conservation and Recovery Act

Region 5 used a combination of tools including the file selection tool in OTIS, which follows the SRF File Selection Protocol to select files. The universe of selection files (compliance monitoring and enforcement) from which to pick was 385. According to the Protocol, the range of files for a universe that size is 20 to 35. As a result, Region 5 picked 31 files to use for its random, representative file selection. The 31 files are from a mix of the categories below and are geographically distributed across the state:

- Different sources (LQG, TSD, SQG, CES and TRA)
- Violations and no violations
- Evaluations
- SNYs
- Informal or formal actions
- Penalties or no penalties

MPCA provided data to EPA for the RCRA portion of the Minnesota 2010 State Review. MPCA embedded different spreadsheets of files in its response to the Official RCRA OTIS Data Pull for MN, dated 5/18/10. According to MPCA, the total number of files for consideration is 140 (51 enforcement files + 89 CEI files = 140 files). Alternatively, using OTIS, there are a total of 172 files for consideration (97 CEI files + 48 informal action files + 27 formal action files = 172 files). OTIS also returned 287 files as the, “Number of sites with violations determined at any time (1 FY).” In either case, the State Review Framework File Selection Protocol states that the total number of files for EPA to select for the review is a number between 20 and 35, because all three numbers are less than 300. MPCA reports the number of sites with violations determined at any time in one FY as 385. The State Review Framework File Selection Protocol states that the range of file selection for 300 to 700 files is 20 to 35. Selecting 31 files fits in this criterion, too.

EPA established a minimum of 15 files for each category applying the file cap of 31 files, noting that this cap is flexible. EPA first selected files from the enforcement spreadsheets then from the compliance evaluation inspection (CEI) spreadsheets, ensuring the files EPA selected were listed in the OTIS selection tool list.

B. File Selection Table

Clean Air Act

Name	Program ID	City	F C E	P C E	Violation	Stack Test Failure	Title V Deviation	H P V	In-formal Action	Formal Action	Penalty	Universe	Select
A-1 EXCAVATING & RECYCLING INC - NM	2700300197	BLAINE	0	0	2	0	0	0	0	1	2,700	SM	Representative
BAY STATE MILLING CO	2716900003	WINONA	1	1	2	0	1	0	0	1	2,700	SM80	Representative
BONGARDS' CREAMERIES	2701900001	NOT IN A CITY	1	0	0	0	0	0	0	0	0	MAJR	Representative
BRAATEN AGGREGATE INC - NONMETALLIC	2715300030	BERTHA	0	1	0	0	0	0	0	0	0	SM	Representative
BUSCH AGRICULTURAL RESOURCES - MOORHEAD	2702700022	MOORHEAD	1	0	0	0	0	0	0	0	0	MAJR	Representative
CERTAINTED CORP	2713900013	SHAKOPEE	0	0	3	0	2	1	0	1	2,500	MAJR	Representative
CHIPPEWA VALLEY ETHANOL CO LLLP	2715100026	BENSON	0	0	5	0	0	1	0	2	0	MAJR	Representative
CONAGRA FOOD INGREDIENTS CO - NEW PRAGUE	2707900006	NEW PRAGUE	0	1	3	0	0	0	2	0	0	SM80	Representative
CONOCO - WRENSHALL PRODUCTS TERMINAL	2701700005	WRENSHALL	0	1	0	0	1	0	0	0	0	SM	Representative
CYTEC ENGINEERED MATERIALS INC	2716900004	WINONA	0	1	1	0	0	0	0	0	0	SM	Representative
FEDERAL-MOGUL CORP POWERTRAIN SYSTEMS	2715700015	LAKE CITY	0	0	3	1	2	1	0	1	0	MAJR	Representative
GEOTEK INC	2710900102	STEWARTVILLE	1	0	4	0	2	0	0	0	151,000	MAJR	Representative
HEARTH & HOME TECHNOLOGIES OF LAKE CITY	2715700022	LAKE CITY	1	0	0	0	0	0	0	0	0	MAJR	Representative
HEDSTROM LUMBER CO INC - GRAND MARAIS	2703100002	GRAND MARAIS	1	0	2	0	0	0	1	0	0	MAJR	Representative
INTERNATIONAL BILDRIE INC	2707100015	INTERNATIONAL FALLS	0	0	3	0	0	0	3	0	0	MAJR	Representative
MARATHON PETROLEUM CO LLC	2716300003	ST PAUL PARK	0	0	2	0	2	1	2	0	0	MAJR	Representative
METROPOLITAN WASTEWATER TREATMENT PLANT	2712300053	ST PAUL	1	0	1	0	2	1	0	1	6,500	MAJR	Representative
MID CONTINENT CABINETRY	2708300023	NOT IN A CITY	1	0	0	0	0	0	0	1	2,875	MAJR	Representative
NORBORD MINNESOTA	2700700019	SOLWAY	1	0	6	0	0	0	1	0	0	MAJR	Representative
NORTHERN IMPROVEMENT CO - NONMETALLIC	2702700065	PINE RIVER	0	1	0	0	0	0	0	0	0	SM80	Representative
POLK CNTY SOLID WASTE RESOURCE RECOVERY	2711900051	FOSSTON	1	0	3	0	0	0	1	0	0	MAJR	Representative
POTLATCH FOREST PRODUCTS CORP LUMBERMILL	2705700002	BEMIDJI	0	0	0	1	2	1	0	1	2,500	MAJR	Representative
PRINCESS MARBLE CO	2703700224	BURNSVILLE	0	0	3	0	2	0	1	0	0	MAJR	Representative
REDWOOD FALLS PUBLIC UTILITIES - S PLANT	2712700038	REDWOOD FALLS	1	0	0	0	0	0	0	0	0	MAJR	Representative
SPECTRO ALLOYS CORP	2703700066	ROSEMOUNT	0	1	4	0	0	1	1	0	0	MAJR	Representative
SUZLON ROTOR CORP	2711700025	PIPESTONE	1	0	0	0	0	1	0	0	0	MAJR	Representative
TRI-COUNTY AGGREGATE INC - NONMETALLIC	2714700065	MEDFORD	0	0	0	0	0	0	0	1	1,687	SM80	Representative

Name	Program ID	City	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select
TROUMBLY BROS INC - NONMETALLIC	2706100064	TACONITE	0	1	0	0	0	0	0	0	0	SM80	Representative
UNIVERSITY OF MINNESOTA - CROOKSTON	2711900016	CROOKSTON	0	1	0	0	0	1	0	1	2,240	SM	Representative
WEATHERTON CONTRACTING CO INC - NONMETAL	2705301030	BERESFORD	0	0	3	0	0	0	1	0	0	SM80	Representative

Clean Water Act

Name	Program ID	City	Permit Component	Inspection	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Universe	Select
MOORHEAD	MN0049069	OAKPORT TWP	0	1	0	0	0	0	1	0	Major	Representative
WESTERN LAKE SSD	MN0049786	DULUTH	0	3	0	0	0	0	1	0	Major	Representative
ARCHER DANIELS MIDLAND	MN0057037	MARSHALL	0	1	2	0	0	0	1	0	Major	Representative
DOVER/EYOTA/SAINT CHARLES ASD DESCASD	MN0046868	SAINT CHARLES	0	1	4	0	0	0	1	0	Major	Representative
NSP-MONTICELLO NUCLEAR PLANT	MN0000868	MONTICELLO	0	0	1	0	0	0	1	2,000	Major	Representative
OTTER TAIL POWER CO Hoot Lake Plant	MN0002011	FERGUS FALLS	0	1	1	0	0	0	1	3,228	Major	Representative
Hansen Hauling and Excavating Inc; Nature Ridge Properties of Austin Co.	7150								1	12805		Supplemental
Jim Tauer Fram	MNG440410								1	4675		Supplemental
WQ-Point Source (see case ID)	9932	Donnelly					0	1				Supplemental
WQ-Point Source (see case ID)	10621	Geneva					0	1				Supplemental
WQ-Point Source (see case ID)	11299	Eveleth					0	1				Supplemental
DAIRY DOZEN	MN0068594 & 089-50002	THIEF RIVER FALLS	0	0	0	0	0	1	0	0	Minor	Supplemental
WQ-Point Source (see case ID)	10994	Wilmont					1	1				Supplemental
WQ-Point Source (see case ID) (Mountain	8964	Mountain Iron					1	1				Supplemental

Name	Program ID	City	Permit Component	Inspection	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Universe	Select
Iron)												
WQ-Point Source (see case ID) (Melrose)	9812	Melrose					0		1	60000		Supplemental
WQ-Point Source (see case ID)	7942	Buffalo Lake					0		1	40000		Supplemental
WQ-Point Source (see case ID)	9342	Minneapolis					0		1	13300		Supplemental
WQ-Point Source (see case ID) Motely	9457 (MN0024 244)	Motley					1		1	17,500		Supplemental
Arnie (owner); Emerald Ponds (site); RL Larson (contractor)Rolling Green	6921								1	52,500		Supplemental
Diamond K dairy	169-50004								1	15000		Supplemental
AMER CRY SUGAR-MOORHEAD	MN0001 945	MOORHEAD	0	1	5	0	0	0	0	0	Major	Representative
BRAINERD Brainerd Water & Light Dept	MN0049 328	BRAINERD	0	2	7	0	0	0	0	0	Major	Representative
CHISHOLM	MN0020 117	CHISHOLM	0	1	3	0	0	0	0	0	Major	Representative
LAKE CITY	MN0020 664	LAKE CITY	0	1	4	0	0	0	0	0	Major	Representative
FARIBAULT	MN0030 121	FARIBAULT	0	1	6	0	0	0	0	0	Major	Representative
NEW ULM	MN0030 066	NEW ULM	0	1	6	0	1	0	0	0	Major	Representative
NORTH KOOCHICHING AREA SANDIS International Falls	MN0020 257	SOUTH INTERNATIONAL	0	2	4	0	0	0	0	0	Major	Representative
SUSTANE CORP	MN0062 731	GOODHUE COUNTY	0	6	24	0	0	0	0	0	Minor	Representative
WINNEBAGO	MN0025 267	WINNEBAGO	0	1	5	0	0	0	0	0	Major	Representative
EVELETH MINES LLC DBA EVTAC	MN0044 946	EVELETH	0	1	0	0	0	0	0	0	Minor	Representative
MINNESOTA BEEF INDUSTRIES	MNG960 030	BUFFALO LAKE	G	1	0	0	0	0	2	17,500	Minor	Representative
SUSTANE CORP	MN0062 731	GOODHUE COUNTY	0	6	24	0	0	0	0	0	Minor	Representative
WELCOME	MN0021 296	WELCOME	0	1	4	0	0	0	1	1,999	Minor	Representative
SILVERSTREAK DAIRY	MN0068 632	BUCKMAN	0	2	0	0	0	0	0	0	Minor	Supplemental
SILVERSTREAK DAIRY	MN0068 632	BUCKMAN		1								Supplemental

Name	Program ID	City	Permit Component	Inspection	Violation	SEV	SNC	Informal Action	Formal Action	Penalty	Universe	Select
STRATMOEN HOG FINISHING INC	MNG440424			1								Supplemental
STRATMOEN HOG FINISHING INC	MNG440424			1								Supplemental
Burkel Turkey Farms Inc - Farm 1	MNG440267			1								Supplemental
Crow Wing Recycling Inc - SW	MNR053464	Crow Wing		1								Supplemental
VERSP PAPER CORP-SARTELL MILL/ASH DISPOSAL-SW	A00002476	STEARNS		1								Supplemental
Northern Frontier Estates	UP00027571	ITASCA		1								Supplemental
Snake River Estates - CSW	C00016820	Sherburne		1								Supplemental

Resource Conservation and Recovery Act

Name	Program ID	City	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
AVEKA, INC.	MN0000461210	WOODBURY	1	4	0	1	0	0	CES	Representative
BLAINE BROTHERS	MNR000111518	SCANLON	1	1	0	1	0	0	CES	Representative
COOPER ENTERPRISES	MNS000130211	DULUTH	1	0	0	0	0	0	CES	Representative
DAVIS MOTORS INC	MND022847115	LITCHFIELD	1	14	0	1	0	0	CES	Representative
FLETCHER TRUCKING - HWY 210	MNR000054601	BRAINERD	2	4	0	1	0	0	CES	Representative
HIBBING COMMUNITY COLLEGE	MND985746064	HIBBING	0	0	0	0	1	0	CES	Representative
HOME DEPOT 2818	MNR000079913	BAXTER	1	2	0	1	0	0	CES	Representative
NELS NELSON & SONS CLOQUET	MNR000033589	CLOQUET	1	0	0	0	0	0	CES	Representative
RAINBOW PAINTING & DECORATING INC	MNS000136283	BRAINERD	0	0	0	0	1	0	CES	Representative
ST LOUIS COUNTY LINDEN GROVE GARAGE	MND981101512	COOK	1	0	0	0	0	0	CES	Representative
ST LOUIS COUNTY MEADOWLANDS GARAGE	MND981101579	MEADOWLANDS	1	2	0	1	0	0	CES	Representative
STANLEYWORKS	MND068148303	TWO HARBORS	1	0	0	0	0	0	CES	Representative
TELEX COMMUNICATIONS INC	MND007230428	GLENCOE	1	7	0	1	0	0	CES	Representative
THORSTAD CONSTRUCTION	MNR000113498	MAYNARD	1	9	0	1	0	0	CES	Representative

Name	Program ID	City	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
CO INC										
TWO HARBORS MACHINE SHOP	MND050729706	TWO HARBORS	1	0	0	0	0	0	CESQG	Representative
TYLER HEALTHCARE CTR	MND095961025	TYLER	1	6	0	0	0	0	CES	Representative
AZZ GALVANIZING-WINSTED	MNS000136846	WINSTED	1	7	0	1	0	0	LQG	Representative
DCI INC.	MND006149330	ST CLOUD	1	8	0	0	1	0	LQG	Representative
HARDCOAT INCORPORATED	MNR000007260	SAINT LOUIS PARK	1	0	0	0	0	0	LQG	Representative
POLAR SEMICONDUCTOR INC.	MND980996433	BLOOMINGTON	1	4	0	0	0	0	LQG	Representative
LKM PROPERTIES	MNS000143792	BECKER	1	7	0	1	0	0	OTH	Representative
SCHURMAN FARMS & GRAIN	MND985682970	SAUK CENTRE	1	3	0	1	0	0	OTH	Representative
WILLMAR POULTRY	MND982631871	WILLMAR	1	9	0	1	1	0	OTH	Representative
DAKTRONICS 1425	MND097100218	REDWOOD FALLS	1	9	0	1	0	0	SQG	Representative
MANEY INTERNATIONAL OF DULUTH INC	MND981200876	DULUTH	1	3	0	1	0	0	SQG	Representative
NEW LIFE COMMUNICATIONS INC PRINT HOUSE	MND985702471	WILLMAR	1	5	0	1	0	0	SQG	Representative
FEDERAL CARTRIDGE COMPANY	MND006156590	ANOKA	1	6	1	1	1	0	TSD(LDF)	Representative
GERDAU AMERISTEEL ST. PAUL	MND041775008	ST PAUL	1	4	0	1	0	0	TSD(LDF)	Representative
IBM ROCHESTER	MND006161756	ROCHESTER	1	0	0	0	0	0	TSD(TSF)	Representative
SIEMENS WATER TECHNOLOGIES CORP.	MND981098478	ROSEVILLE	1	0	0	0	0	0	TSD(TSF)	Representative
RANDT RECYCLING	MNT280011818	LITCHFIELD	1	4	0	1	0	0	NOT NOTIFIER	Representative

Note: Randt Recycling is not in OTIS, but is one of the files reviewed. The columns were filled for this facility based on the information found in RCRAInfo and the review sheet.

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 Metrics Analysis Form in the report only includes metrics where potential concerns or areas of exemplary performance are identified.

Initial findings indicate the observed results. They are preliminary observations and are used as a basis for further investigation. These findings are developed only after evaluating them against the PDA results where appropriate, and talking to the state. Through this process, initial findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV 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.

Clean Air Act Program

Name of State: Minnesota

Review Period: FY 2009

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	33.3%	10/30 files are accurate.
Metric 4a	Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan was completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric.	100%	For FY 2009, the state committed to FCEs at 123 Majors and 24 SM-80s. The State conducted 124 and 25, respectively.
Metric 4b	Delineate the air 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.	0.0%	0 of 2 non-FCE commitments in the MPCA EnPPA have been fully met.
Metric 6a	# of files reviewed with FCEs.	12	
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	66.7%	8/12 files met FCE definition
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	0%	0/12 met definition of CMR. All CMRs for FCEs are lacking several elements. For example, insignificant units are not listed. Some CMRs have incomplete compliance / enforcement histories and other CMRs lack contact name, contact phone number or facility designation.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	82.8%	24/29 files led to accurate determination.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	28.6%	4/14 violations have timely entry.

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 8f	% of violations in files reviewed that were accurately determined to be HPV.	92.6%	25/27 HPVs determined correctly.
Metric 9a	# of formal enforcement responses reviewed.	11	<i>Note: of the 11 formal responses reviewed, 7 were for HPVs</i>
Metric 9b	% of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame.	100%	11/11 formal enforcement responses that have or will return a source to physical compliance.
Metric 10b	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	71.4%	5/7 HPVs reviewed were addressed in a timely manner.
Metric 10c	% of enforcement responses for HPVs appropriately addressed.	85.7%	6/7 enforcement responses for HPVs addressed through legally-enforceable action.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	90.9%	10/11 files included gravity and economic benefit.
Metric 12c	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	8/8 documents the difference and rationale between the initial and final penalty. Please note: the universe of penalties is less than Metric 11a because some files did not have adjustments between initial and final penalties.
Metric 12d	% of files that document collection of penalty.	100%	6/6 files document a penalty was collected. Please note: the universe of penalties is less than Metric 11a because some files forgave 100% of the penalty. This occurred in many files where the facility did not submit a report. The facilities were sent a formal enforcement response that said the proposed penalty would be 100% forgiven if the facility submitted the required report.

Clean Water Act Program

Name of State: Minnesota

Review Period: FY 2009

CWA Metric #	CWA File Review Metric Description:	Metric Value	Initial Findings
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	47%	15 out of 32 files had data accurately reflected in PCS. This may be due to data not being translated correctly between the state database and ICIS.
Metric 4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	75%	6 of 8 inspection commitments met.
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.	50%	Zero of one commitment in the EnPPA was completely met.
Metric 6a	# of inspection reports reviewed.	30	
Metric 6b	% of inspection reports reviewed that are complete.	83%	25 out of 30 inspection reports were complete. MPCA does not consistently produce complete inspection reports.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	87%	26 out of 30 inspection reports provided sufficient information to lead to an accurate compliance determination.
Metric 6d	% of inspection reports reviewed that are timely.	67%	20 out of 30 reports reviewed were timely according to MPCA timelines in staff performance standards.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	80%	24 out of 30 inspection reports led to accurate compliance determinations.
Metric 8b	% of single event violation(s) that are accurately identified as SNC	75%	Three out of 4 files contained SEVs that were accurately identified as SNC. MPCA does not identify SEVs, nor record them, in its database.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	Zero out of three files contained SEVs that were SNC and reported timely as a result of no identification of SEV or determination of SNC at all.
Metric 9a	# of enforcement files reviewed		23 files reviewed
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	3 out of 3 files with SNC violations had enforcement responses that returned sources to compliance

CWA Metric #	CWA File Review Metric Description:	Metric Value	Initial Findings
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	95%	20 out of 21 files with non-SNC violations returned the source to compliance or were on a schedule to return to compliance.
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	0%	0 out of 3 files had timely enforcement responses
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	3 out of 3 files had appropriate enforcement actions
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	21 out of 21 non-SNC enforcement actions were appropriate
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	75%	15 out of 20 non -SNC enforcement actions were timely.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	11 out of 11 initial penalty calculations included economic benefit and gravity
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	91%	10 out of 11 files document the difference between the initial and assessed penalties
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	89%	8 out of 9 files reviewed have evidence that a penalty was collected

Resource Conservation Recovery Act Program

Name of State: Minnesota

Review Period: FY 2009

RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	65%	20 of 31 inspection and enforcement files had data that were reflected accurately in RCRAInfo.
Metric 4a	Planned inspections completed	102%	The LQG inspection goal is 48. MPCA conducted 49 LQG CEIs and one LQG CEI at a facility now reporting as SQG. The region conducted 5 LQG CEIs and one LQG CEI at a facility now reporting as an SQG. Hennepin County conducted 18 LQG CEIs. MPCA conducted 16 CEIs under the Hospital Initiative agreement with Region 5. Therefore, MPCA, Hennepin County, and Region 5 conducted a total of 55 LQG CEIs which exceeded the FY09 goal of 54. MPCA also conducted 12 TSDf CEIs and met the 12 TSDf CEI inspections for FY09.
Metric 4b	Planned commitments completed	50%	Through the 2008/2009 EnPPA, MPCA committed to 2 actions beyond inspections. 1 of these actions has been accomplished.
Metric 6a	# of inspection reports reviewed.	90%	In the 31 files selected for the file review there were a total of 28 inspection reports that were found in the files and reviewed as part of the SRF review. In general the inspection reports were complete. However, several inspection reports did not have typed narratives and they were not signed.
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	93%	Of the 28 inspection reports reviewed, two inspection reports were either not complete or did not have sufficient information to make a compliance determination. We recommend that inspection reports include more photographs to document the violations.
Metric 6c	Inspections reports completed within a determined time frame.	96%	27 of 28 inspection reports were completed within the 45 days to complete the reports as negotiated between the state and the Region.
Metric 7a	% of accurate compliance determinations based on inspection reports.	96%	Based on the information provided in the 28 inspection reports, 27 inspection reports appeared to have accurate compliance determinations.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	93%	25 of 27 violation determinations that were made were reported within 150 days of Day Zero.
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC or SV.	87%	Of the 23 SNCs and SVs that were reviewed, three SVs should have been classified as SNCs.
Metric 9a	# of enforcement responses reviewed.	23	

RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Two of the SNCs that were identified were returned to compliance.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	100%	Of the 21 SVs, 21 were returned to compliance and were RTCd.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	87%	3 of the 23 enforcement responses were taken in a timely manner
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	91%	Of the 23 enforcement determination 21 were correct. However two SVs should have been designated as SNCs which led to informal enforcement action.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	85%	Of the 6 cases where penalties were assessed, 5 files contained brief documentation of the penalty calculation, including the economic benefit and gravity. The sixth file did not contain any documentation of the economic benefit.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	For the six penalties cases, the initial and final penalty was the same.
Metric 12b	% of files that document collection of penalty.	100%	All six penalty cases reviewed contained documentation indicating that the penalty was collected.

APPENDIX H: CORRESPONDENCE



Minnesota Pollution Control Agency

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November 4, 2011

Mr. Bharat Mathur, Deputy Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

RE: Minnesota Pollution Control Agency Comments on Draft Enforcement Review Report

Dear Mr. Mathur:

As part of the U.S. Environmental Protection Agency's (EPA) enforcement program review of the Clean Air Act (CAA), National Pollutant Discharge Elimination System (NPDES), and Resource Conservation and Recovery Act (RCRA) programs in Minnesota, the Minnesota Pollution Control Agency (MPCA) was provided with a draft Enforcement Review Report (Report) on August 10, 2011, for review and comment.

The MPCA has worked with EPA media staff to understand the findings and recommendations. In preparation for the opportunity to have meaningful input on the final Report, the MPCA has spent considerable time reviewing the draft Report. The MPCA's comments on the draft Report are provided in three parts: Attachment 1 (CCA), Attachment 2 (NPDES), and Attachment 3 (RCRA). The EPA may assume that the MPCA has no comment for findings or recommendations not referenced in the Attachments.

The MPCA appreciates the extension of the response deadline to November 7, 2011. In addition, we appreciate the opportunity to comment on the draft Report and anticipate that the final Report will incorporate information from these comments, as well as any resulting discussions between our two agencies of the findings or recommendations. If you have any questions regarding this correspondence, please contact John Elling of our staff at 651-757-2337.

Sincerely,

A handwritten signature in black ink that reads "Paul W. Aasen". The signature is fluid and cursive, with a long horizontal line extending to the right.

Paul W. Aasen
Commissioner

PA/JE/BF:ch

Enclosures

Attachment 1 Clean Air Act Program Comments

Major Issues Identified in Executive Summary

Inspection Reports and Evaluations – CWA, and CAA inspection reports and evaluations were not complete, and/or did not provide enough information to support compliance determinations. This can result in a failure to identify violations for follow-up action and return to compliance.

In the MPCA Air Quality Program, every emission unit is reviewed and compliance status entered for it in the Delta inspection report. EPA is faulting MPCA for not writing a detailed summary in the narrative section of the report, but the entry at the emission unit level already makes the compliance determination for each applicable requirement and identifies violations that occurred. If needed, narrative is entered at that location in the report. MPCA staff has been instructed, in response to EPA's concerns, to include recent enforcement actions and violations, comments on any modifications made that might be subject to permit requirements, and an overall summary of the inspection findings in the inspection report.

Status of Outstanding Recommendations from Previous Reviews

State	Status	Due Date	Media	Element	Title	Finding
MN – Round 1	Long Term Resolution	12/31/2011	CAA	Violations ID'ed Appropriately	Inspection Reports not complete.	Hold discussions to agree on contents of inspection report.

Inspection reports indicate compliance status at the emission unit level. Overall facility compliance summaries will also be indicated to address this concern.

Element 1 – Data Completeness

In Metric 1b1, the 347 number from air facility system (AFS) includes shutdown (OPST = "X") facilities. When the shutdowns are excluded the number is 249, which is a 4% difference. This is well within the 10% tolerance set by EPA.

In Metrics 1b2 and 1c1 through 1c6, National Emission Standards for Hazardous Air Pollutant (NESHAP), Maximum Achievable Control Technology (MACT), and New Source Performance Standards (NSPS) are only tracked for high priority violator (HPV) facilities

Element 2 – Data Accuracy

Data is not available to verify these figures, but they are likely valid.

Element 3 – Timeliness of Data Entry

The MPCA calculates that 35.7% of HPVs (10 of 28) were entered within 60 days from Day 0, which is slightly higher than EPA's number (29.7). Also, there are four cases where the Day 0 takes place before the discovery action. This occurs when the discovery action was a test review (action 35 or 37).

These actions were entered with the test dates (rather than the review dates) at the time of the HPV pathway creation. Later those action achieved dates were changed to the review dates (the test dates were then cross referenced in the RD16 field). The Day 0 does not adjust for changes in the discovery date. In these four cases, the timeliness indicator is biased toward the untimely side.

The compliance monitoring minimum data requirements (MDR) rate of 27.1% is misleading because for FFY 2010, a team of staff reviewed all compliance certifications and their review was not completed within the 60 day timeliness window. Therefore, an accurate characterization of our annual certification submittals and reviews was not possible within the timeliness window of 60 days.

The enforcement MDR rate of 76.1% is likely valid.

Element 4 – Completion of Commitments

EPA has not specified what data entered to AFS is inaccurate or untimely. Timeliness is not always attainable. One MDR in particular, the MACT, NSPS subparts has only been entered for HPVs, which has been previously disclosed to EPA.

Element 5 – Inspection Coverage

The synthetic minors (SMs) to be inspected are agreed upon with EPA before the start of each FFY. The inspection completion percentage for those agreed upon has been much closer to 100%. Minnesota does not have 267 synthetic minor facilities (the SM80s). Minnesota's total SM universe is 249. More importantly, there are actually 42 SM80s's in Minnesota based on the most recent emission data available. Despite there being 42 SM80s in Minnesota, the MPCA has inspected 102 SM facilities in the most recent five years, including all identified SM80s. This places the MPCA far ahead of the obligation to inspect the 42 SM80s during the five-year time period.

Element 6 – Quality of Inspection or Compliance Evaluation Reports

The Delta permit and compliance report system contains the emission unit information. There is no need to repeat this information in the inspection report. The other identified data gaps, including a summary of recent enforcement actions, are now being entered by staff.

MPCA Air Quality Program staff has been instructed to begin completing a description of the facility enforcement history. This description is also contained in the Delta database, which contains all enforcement actions and related documents for each facility. Contact names are included in the inspection report. Telephone numbers are readily available in the Delta database.

Numerous scenarios exist for designating an emission unit as indeterminate for compliance status. For example, the source may have an emission limit for a specific pollutant, but due to the very low likelihood of an emission test failure because of the low potential to emit that pollutant from that process, no emission testing is required. During an inspection, the best designation for this pollutant and emission unit compliance status is indeterminate.

MPCA does not follow the narrative report style used and requested by EPA. However, MPCA does review individual compliance status for each emission unit, pollution control device, pollutant, and all other related permit applicable requirements during the inspection and report completion process.

This actually provides a more thorough and complete review of facility compliance status than would a narrative.

Element 7 – Identification of Alleged Violations

The MPCA appears to have met the national goal for these metrics.

The Westrom Decision requires that information regarding active enforcement cases not be made public until the case is resolved. This has introduced a delay in making details of open enforcement cases available for EPA to post in the ECHO database and at other locations.

Element 10 – Timely and Appropriate Action

More complex cases do often require more than 270 days to reach settlement.

Attachment 2 Clean Water Act Program Comments

Major Issues Identified in Executive Summary

Data Entry – The MPCA RCRA, CWA, and CAA programs each have issues with providing complete, accurate, and/or timely data to EPA systems. Missing or inaccurate data affects the ability of both EPA and MPCA to determine enforcement program quality. It also hinders our ability to give the public a transparent and accurate account of compliance and enforcement actions by the state.

Data was previously entered on a quarterly basis in the program control system (PCS) and is now entered quarterly in the Integrated Compliance Information System (ICIS). The data was reviewed by the MPCA as part of the Data Verification Process in PCS, not ICIS. Since that review the data has migrated to ICIS. It is possible that not all data migrated.

The MPCA's water monitoring periods do not always align exactly to the Federal fiscal year. Inspections and enforcement actions are entered and managed every quarter.

The MPCA does not manage all the data EPA is asking for in an electronic format for single event violations (SEVs).

Violation Identification and Determinations of Significant Non-Compliance – For all three programs, a large number of violation determinations are not being entered/translated into data systems in a timely manner, which is related to the data issue mentioned above. For the CWA program, Single Event Violations (those usually found as a result of an inspection instead of through automated reviews of discharge reports) are not being reported and/or are not being identified as those in significant non-compliance when appropriate. Non-timely violation identification, and failure to determine the most significant non-compliance, prevents MPCA and EPA from taking timely and appropriate action to address important environmental problems.

The MPCA has never managed SEVs in PCS or ICIS. The MPCA is currently working on a procedure to address this by following the EPA's October 15, 2008, guidance document "Single Event Violation Data Entry Guide for ICIS-NPDES" Version 1.0.

Element 1 – Data Completeness

The summary should not reference Element 2, which is a separate determination. The findings are accurate, but the scope of the recommendation does not match the findings. EPA has also not disclosed which MDR is not complete.

Element 2 – Data Accuracy

For major facilities, violations were rarely linked in PCS because the Data Manager was not receiving the enforcement actions and was not notified in the Quarterly Noncompliance Report (QNCR) reviews if a specific violation was referenced in an enforcement action.

Element 3 – Timeliness of Data Entry

This finding improperly equates Element 3 with Element 2.

Data was previously entered on a quarterly basis in PCS and is now entered quarterly in ICIS. The data was reviewed by the MPCA as part of the Data Verification Process in PCS, not ICIS. Since that review the data has migrated to ICIS. It is possible that not all data migrated.

Element 4 – Completion of Commitments

The MPCA's Pretreatment Program committed to perform 2 Audits and 7 pretreatment compliance inspections (PCIs). Due to a communication error among program staff, only 1 Audit and 6 PCIs were conducted.

Element 5 - Inspection Coverage

The MPCA's Pretreatment Program committed to perform 2 Audits and 7 PCIs. Due to a communication error among program staff, only 1 Audit and 6 PCIs were conducted.

Element 6 – Quality of Inspection or Compliance Evaluation Reports

In the Traditional Point Source Facilities (industrial and municipal wastewater) Program, two files were reviewed. One did have enough information to make a determination, and one did not. The Compliance Evaluation Report (CER) template for compliance evaluation inspections (CEIs) was not used in that case. EPA approved this template in response to the 2007 State Review Framework (SRF) and determined that by using the template, adequate information is obtained to make these determinations. MPCA leadership will remind all staff to use this template.

MPCA leadership will remind staff of the established timelines for inspection report completeness. The MPCA Point Source Inspector Manual states that a CER should be sent within 30 days of the inspection, or with the first written correspondence if violations are present (i.e., alleged violation letter, letter of warning, notice of violation, etc.)

In the Concentrated Animal Feedlot Operation (CAFO) Program, a total of seven files were reviewed. Two of the files were found to be deficient for both timeliness and completeness. One of the files did not include a completed inspection checklist. The second file included a checklist; however, the checklist did not contain enough information to make a compliance determination. Neither file included correspondence with the regulated party regarding the inspections. To ensure inspection report timeliness and completeness, program leadership will remind staff to use available tools and establish timelines for inspection report completeness. The Feedlot NPDES/SDS Permitted Facility Inspection Checklist (wq-f3-46, 8/9/11) ensures there is sufficient information to lead to an accurate compliance determination. The Feedlot Program Compliance Inspection Flow Chart (wq-f5-09, 4/7/08) clearly shows the steps to be taken after an inspection, including that inspection reports are to be completed, returned to the regulated party, and properly filed.

Element 7 – Identification of Alleged Violations

The MPCA has never managed SEVs in ICIS. Procedures will be developed to manage SEVs internally and externally.

SEVs do not apply to minor facilities.

Element 8 – Identification of SNC and HPV

The MPCA has never managed SEVs in ICIS. Procedures will be developed to manage SEVs internally and externally.

Element 10 – Timely and Appropriate Action

For the three files reviewed, significant non-complier (SNC) violations were not addressed in a timely manner. MPCA will remind staff of timelines identified in EPA's May 29, 2008, memorandum "Clarification of timely and appropriate response for SNC violations". This memorandum was placed on the MPCA Inspectors Website for guidance to staff in response to the 2007 SRF.

Attachment 3

Resource Conservation and Recovery Act Program Comments

Element 1 – Data Completeness

These data are withheld from Online Tracking Information System (OTIS) because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 2 – Data Accuracy

These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 3 – Timeliness of Data Entry

These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 4 – Completion of Commitments

These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 5 – Inspection Coverage

This data is misleading because the large quantity generator (LQG) universe is fluid. The fact that 163 of 264 LQGs received compliance evaluation inspections (CEI)Is over a five-year period does not necessarily mean any single LQG went more than five years without a CEI. While there were in fact a number of LQGs that did go more than five years without a CEI, this was due to LQG inspection coverage being impacted by the transfer of compliance and enforcement resources to hospital inspections under the then-existing Flexibility Plan. By the end of FFY 2012, the number of LQGs in Minnesota that will have gone five years without a CEI should be zero.

Element 7 – Identification of Alleged Violations

These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 8 – Identification of SNC or HPV

These data are withheld from OTIS because of the Westrom Decision. However, the data are available in RCRAInfo. The MPCA and EPA headquarters are working on strategies to make more data about regulated parties with open enforcement cases available in OTIS.

Element 11 – Penalty Calculation Method

The \$10,000 limit on Administrative Penalty Orders is outside the MPCA's direct control. It is a statutory cap enacted by the Minnesota Legislature.

Element 12 – Final Penalty Assessment and Collection

OTIS reported no penalties because the MPCA did not, and does not, have the ability to translate penalty data from Delta to RCRAInfo. Penalty data is now being directly entered by MPCA staff into RCRAInfo.