

STATE REVIEW FRAMEWORK REVIEW

North Carolina

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2011

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

**Final Report
September 18, 2013**

SRF Executive Summary

Introduction

The Clean Water Act (CWA) State Review Framework (SRF) review of the North Carolina Department of Environment and Natural Resources (DENR) was conducted the week of January 7, 2013. The Resource Conservation and Recovery Act (RCRA) and the Clean Air Act (CAA) on-site file reviews were conducted during the week of November 26, 2012.

This report includes reviews of the Clean Water Act National Pollutant Discharge Elimination System (CWA-NPDES) program, the Clean Air Act (CAA) Stationary Source program, and Resource Conservation and Recovery Act (RCRA) Subtitle C program.

SRF findings are based on file metrics derived from file reviews, data metrics, and conversations with program staff.

SRF Priority Issues to Address

The following are the top SRF priority issues affecting the state's program performance:

- North Carolina DENR needs to improve how they document penalty calculations to include the consideration of economic benefit and the rationale for any difference between the initial and final penalty assessed.
- North Carolina DENR needs to improve the accuracy of data entry in the NPDES Integrated Compliance Information System (ICIS-NPDES).
- North Carolina DENR needs to improve the timeliness and appropriateness of CWA enforcement actions and ensure that actions promote a return to compliance.

Major SRF CWA-NPDES Program Findings

- The accuracy of Minimum Data Requirements (MDRs) reported by DENR into ICIS-NPDES needs improvement. This was identified as an Area for State Improvement during the Round 2 review. EPA recommends that DENR submit and implement revised procedures to EPA to address the causes of inaccurate reporting. EPA will monitor improvement through existing oversight calls and other periodic data reviews.
- Inspection reports do not consistently include all required elements and are not consistently completed in a timely manner. This was identified as an issue during the Round 2 review. EPA recommends that DENR submit and implement revised procedures to ensure that inspection reports include all required elements and that they are completed in a timely manner. EPA will assess progress of improvements through existing oversight calls and other periodic reviews.

- Enforcement actions do not consistently result in violators returning to compliance. This was an issue raised during the Round 2 review. EPA recommends that DENR take steps to ensure a return to compliance by including injunctive relief, compliance schedules and other conditions in their Civil Penalty Assessments. EPA will assess progress in implementation of improvements through existing oversight calls and other periodic reviews.
- Significant Non-Compliers (SNCs) are not addressed in a timely and appropriate manner. This was an issue raised in the Round 2 review. EPA recommends that DENR take formal enforcement actions to address SNCs. Formal enforcement actions should include injunctive relief, compliance schedules and other conditions of formal enforcement. EPA will monitor progress through existing oversight and other periodic reviews.
- DENR needs to improve the documentation of penalty calculations to include the consideration of economic benefit. This issue was raised in the Round 2 review. EPA recommends that DENR implement procedures to document that enforcement cases are evaluated for gravity and economic benefit. EPA will monitor progress through existing oversight calls.

Major SRF CAA Stationary Source Program Findings

- DENR met its enforcement and compliance commitments made in state/EPA agreements and met the negotiated frequency for compliance evaluations for major sources and synthetic minor sources.
- DENR does not adequately document the consideration of economic benefit in penalty calculations. This was identified as an Area for State Attention during the Round 2 review. EPA recommends that DENR submit and implement procedures to ensure appropriate documentation of both gravity and economic benefit in penalty calculations, using the BEN model or other appropriate method. For verification, all final penalty worksheets for federal reportable violations should be submitted to EPA Region 4 for review for the six months following issuance of the final SRF report.

Major SRF RCRA Subtitle C Program Findings

- DENR needs to ensure that the generator status of facilities in the North Carolina Dry Cleaner & Solvent Clean-up program is correct. Because some of the facilities in this program were incorrectly identified as Large Quantity Generators (LQGs), DENR did not meet the RCRA five-year inspection coverage requirement. EPA Region 4 will monitor the modifications to generator status and inspections through RCRA Grant Workplans and RCRAInfo.

- DENR does not document the consideration of economic benefit in penalty calculations. This was identified as an Area for Improvement during the Round 2 review. EPA encourages DENR to continue to monitor and advance proposed legislation to amend the Hazardous Waste Penalty Computation Authority to allow for assessing penalties for the economic benefit of noncompliance. Additionally, DENR should alert EPA on steps to incorporate economic benefit considerations into penalty calculations if the legislation is approved.

Major Follow-Up Actions

Recommendations and actions identified from the SRF review will be tracked in the SRF Tracker.

State Review Framework

I. Background on the State Review Framework

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

- Clean Air Act Stationary Source
- Clean Water Act National Pollutant Discharge Elimination System
- Resource Conservation and Recovery Act Subtitle C

Reviews cover these program areas:

- Data — completeness, timeliness, and quality
- Compliance monitoring — inspection coverage, inspection quality, identification of violations, meeting commitments
- Enforcement actions — appropriateness and timeliness, returning facilities to compliance
- 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
- Development of findings and recommendations

Consultation is also built into the process. This ensures that EPA and the state understand the causes of issues and seek agreement on actions needed to address them.

SRF reports are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify any issues that require a national response.

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

Each state's programs are reviewed once in a four year cycle. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2012 and will continue through FY 2017.

II. SRF Review Process

Review period: FY 2011

Key dates:

- Kickoff letter sent to state: September 24, 2012
- Data metric analysis and file selection lists were sent to the state in September and November 2012.
- The RCRA and CAA on-site file reviews were conducted during the week of November 26, 2012.
- The CWA on-site file review was conducted the week of January 7, 2013.
- Draft report sent to state: April 19, 2013
- Report finalized: September 18, 2013

Communication with the state: In the fall every year management from EPA Region 4 Office of Environmental Accountability meet with State Enforcement staff to provide information on enforcement priorities for the year ahead and to discuss enforcement and compliance issues of interest to the state and EPA. The meeting with NC DENR staff occurred on September 5, 2012 and the schedule for conducting an integrated SRF-PQR review of NC using FY 2011 was discussed. A follow up letter was sent September 24, 2012 outlining the process.

Appendix F contains copies of correspondence between EPA and DENR.

State and EPA regional lead contacts for review:

	North Carolina DENR	EPA Region 4
SRF Coordinator	Robin Smith and Mitch Gillespie Trina Ozer	Becky Hendrix, SRF Coordinator Kelly Sisario, OEA Branch Chief
CAA	Michael Pjetraj	Mark Fite, OEA Technical Authority Wendell Reed, Air Enforcement Branch
CWA	Jeff Poupart	Ronald Mikulak, OEA Technical Authority Laurie Lindquist, Clean Water Enforcement Branch
RCRA	Dexter Matthews	Shannon Maher, OEA Technical Authority Nancy McKee, RCRA and OPA Enforcement and Compliance Branch

III. SRF Findings

Findings represent EPA's conclusions regarding state performance, and may be based on:

- Initial findings made during the data and/or file reviews
- Annual data metric reviews conducted since the state's Round 2 SRF review
- Follow-up conversations with state agency personnel
- Additional information collected to determine an issue's severity and root causes
- Review of previous SRF reports, MOAs, and other data sources

There are four types of findings:

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, **and** are innovative and noteworthy, **and** can serve as models for other states. The explanation must discuss these innovative and noteworthy activities in detail. Furthermore, the state should be able to maintain high performance.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern **or** problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal. The state is expected to maintain high performance.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal. The state should correct these issues without additional EPA oversight. The state is expected to improve and achieve high performance. EPA may make recommendations to improve performance but they will not be monitored for completion.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal. Recommendations are required to address the root causes of these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Clean Water Act Findings

CWA Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

Finding 1-1 Meets Expectations

Description

DENR has ensured that the minimum data requirements (MDRs) were entered into the Integrated Compliance Information System (ICIS).

Explanation

Element 1 is supported by SRF Data Metrics 1a through 1g and measures the completeness of data in the national data system. EPA provided the FY2011 data metric analysis (DMA) to DENR in November 2012. No issues were identified for Element 1 in the DMA.

Element 1 includes 15 data verification metrics which the State has the opportunity to verify annually. For the sake of brevity, these metrics are not listed here, but can be found in the DMA in Appendix A.

Relevant metrics

Data Metrics 1a – 1g

State response

No comment on this finding.

Recommendation

CWA Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1 Area for State Improvement

Description The accuracy of MDR data reported by DENR into ICIS needs improvement. Discrepancies between information found in the State’s files and ICIS were identified in 61% of the files reviewed.

Explanation File Review Metric 2b measures files reviewed where data are accurately reflected in the national data system. Of the 41 files reviewed, 39% (16 of 41) of the files documented MDRs being reported accurately into ICIS. Thirty files had single or multiple discrepancies identified. Common discrepancies or inconsistencies between the Online Tracking and Information System (OTIS) Detailed Facility Reports (DFR) and the State’s compliance/enforcement (C/E) files were related to: penalty amounts (13), inspection reports (13), enforcement actions (13), addresses or facility’s name (11), Daily Monitoring Report (DMR) Violations (7), and non-DMR violations (3).

Data accuracy was an Area for State Improvement identified during the Round 2 SRF review. Steps taken by the State in response to the Round 2 recommendation have addressed the Round 2 issue, however additional data accuracy issues were identified in Round 3. Data accuracy, therefore, remains an Area for State Improvement.

Relevant metrics 2b: Files reviewed where data are accurately reflected in the national data system: 16/41 = 39%

- National Goal 95%

State response The tool used by EPA does not completely relay all the data that the state uploads to ICIS-NPDES. EPA’s tool, the OTIS Detailed Facility Report (DFR), indicated that the state was not providing all required data to EPA as part of the MDRs. The State contends that it is uploading the required data. The State is not required to report Discharge Monitoring Report (DMR) violations. The state does report NPDES permit limits/monitoring requirements and DMR data. EPA generates DMR violations based on the submitted data. Therefore, the absence of some DMR violations on the Detailed Facility Report (DFR) is an EPA issue, not a deficiency on the part of the state. Regarding penalty amounts, the State does upload both the penalty amounts assessed and collected to ICIS-NPDES but is not required to upload the penalty amounts remitted; thus this is not a deficiency as the state is not required to provide this data to ICIS-NPDES. The State agrees that data accuracy was an area for State improvement in Round 2 but disagrees with the contention that it was not fully addressed. The Round 2 SRF file metric 2b write-up dealt with Whole Effluent Toxicity

requirements and was addressed. It is not related to the findings stated above.

Recommendation By March 31, 2014, DENR should submit revised procedures to EPA which ensure the accurate reporting of enforcement and compliance MDRs into ICIS. EPA is available to advise the State on possible solutions to any data translation issues. The procedures should be designed to address the causes of the inaccurate reporting. EPA's Clean Water Enforcement Branch (CWEB) will monitor the improvement of the accuracy of the State's MDR data entry through the existing oversight calls and other periodic data reviews. If by September 30, 2014, these periodic reviews indicate that the revised procedures appear to be adequate to meet the national goal, the recommendation will be considered completed. It is also suggested that the State explore the use of an electronic filing system to assist in the management of compliance and enforcement data and information.

CWA Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

Finding 3-1 **Unable to make a finding**

Description Element 3 is designed to measure the timeliness of mandatory data entered into the national data system. Sufficient information to verify the timeliness of data entry, however, does not currently exist.

Explanation EPA’s Office of Enforcement and Compliance Assistance (OECA) is currently reviewing this Element and the inability to make a finding based on the current design of ICIS. Modifications of this Element may be reflected in future SRF reviews.

Relevant metrics

State response N/A – EPA did not provide a finding.

Recommendation

CWA Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 Area for State Attention

Description DENR met most of their inspection commitments outlined in their FY 2011 Compliance Monitoring Strategy (CMS) Plan, their FY 2011 CWA §106 Workplan, and other non-inspection C/E commitments in their FY 2011 CWA §106 Workplan.

Explanation Element 4 measures planned inspections completed (Metric 4a) and other planned C/E activities completed (Metric 4b). The National Goal for this Element is for 100% of commitments to be met. Under Metric 4a, the State met or exceeded all FY 2011 inspection commitments with the exception of construction storm water inspections in which the State met 88% of its commitment. Because the expectation is that all CMS and Workplan commitments will be met and since the State did not meet its Workplan commitment in only one Metric, this is an Area for State Attention. Under Metric 4b, the State met or exceeded its planned C/E activities related to data management requirements; reporting/enforcement requirements; pretreatment facilities requirements; and policy, strategy and management requirements.

Relevant metrics

Metric # and Description	# Committed	# Completed
4a1: Pretreatment compliance inspections	42	61
4a1: Pretreatment compliance audits	21	26
4a2: Significant industrial users (SIU) inspections for SIUs discharging to non-authorized POTWs	0	0
4a3: EPA/State oversights of SIU inspections by approved POTWs	0	0
4a4: Major CSO inspections	0	0
4a5: SSO inspections (Majors)	46	101
4a5: SSO inspections (Minors)	36	111
4a6: Phase I MS4 audits/inspections	1	1
4a7: Phase II MS4 audits/inspections	10	11
4a8: Industrial storm water (SW) inspections (Individual)	17	40
4a8: Industrial storm water (SW) inspections (General Permit)	377	652
4a9: Phase I/II construction SW inspections	1200	1,056
4a10: Inspections of large/medium NPDES permitted CAFOs	17	17
4a11: Inspections of non-permitted CAFOs	0	0
4b: Other planned commitments completed	6	6

- National Goal 100%

State response The state is committed to meeting its inspection commitments and has developed procedures to ensure commitments are met. Inspection requirements for FY 12 were fully met.

Recommendation

CWA Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1 **Meets Expectations**

Description Inspection goals for major and non-major traditional dischargers were met in FY 2011.

Explanation Element 5 addresses inspection coverage as reflected in the CMS. In the FY 2011 CMS, DENR negotiated an inspection coverage goal of 112 major facilities (50% of the permit universe of 223), 205 non-majors with individual permits (20% of the permit universe of 1,027), and 170 non-majors with general permits (10% of the permit universe of 1,703). DENR exceeded these goals.

Relevant metrics	<u>Metric: Universe</u>	<u>Completed/Committed</u>
5a1: Inspection coverage of NPDES majors.....		171/112 (153%)
5b1: Inspection coverage of NPDES non-majors with individual permits.....		522/205 (255%)
5b2: Inspection coverage of NPDES non-majors with general permits.....		370/170 (218%)

- National Goal 100% of CMS Plan commitments

State response No comment on this finding.

Recommendation

CWA Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1 Area for State Improvement

Description Inspection reports, while providing “sufficient” documentation to determine compliance, did not consistently provide “complete” information and were not consistently completed in a timely manner.

Explanation Metric 6a addresses inspection reports reviewed that provide sufficient documentation to determine compliance at the facility. Of the 31 files for which inspection reports were reviewed, 28 (90%) were found to have “sufficient” information to support a compliance determination. However, 28 were found to lack “complete” information as outlined in EPA’s Compliance Inspection Manual. Many of the 28 reports that were found to lack complete information to support a compliance determination did not make a clear connection between observations noted in the inspection checklist/inspection report and the relevant regulatory or permit requirements (see pages 2-34 and 2-35 of EPA’s July 2004 NPDES Compliance Inspection Manual). Without these regulatory/permit citations, the reviewer cannot clearly determine compliance nor ascertain whether the listed item is a deficiency needing correction versus a recommendation for improved performance. Additionally, many of the inspection reports were missing other important or critical information that hindered EPA’s review of compliance determinations made. Issues with the inspection reports are summarized below:

Inspection Report Issue	Number of Inspection Reports
Did not include regulatory/permit citations:	26
Did not describe the NPDES-regulated activity or facility operations being inspected;	18
Were unsigned and/or undated:	13
Did not describe nor identify the receiving surface waters or the discharge;	12
Were incomplete (areas evaluated during an inspection were not documented; e.g., Records/Reports, Laboratory, Effluent/Receiving Waters, etc.);	8
Were mislabeled (e.g., the inspection activity did not match the Inspection Report that was coded into ICIS);	5
Were unclear regarding compliance status, permit status or observed violations; or	4

Did not include the names and/or phone numbers of the facility's representatives.	1
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Metric 6b addresses inspection reports completed within prescribed timeframes. DENR's Enforcement Management System (EMS) for NPDES Program Areas (2011) establishes timeliness goals for report distribution of 30 days from the date of inspection or of receipt of lab results, if sampling is involved. Thirty-four of the files reviewed contained inspection reports that were evaluated under this metric. 22 (65%) of the 34 files for non-sampling inspections were completed within 30 days of the inspection. The average number of days from inspection to report completion was found to be 23 days; with the reports that were not timely ranging from 36 days to 100 days. Additionally, of the inspection reports that were reviewed and determined not to be timely, 6 reports were not dated and were, therefore, considered not to be timely. The degree to which the State's inspection reports were complete and timely was an issue that was raised during the Round 2 SRF review. Steps taken by the State in response to the Round 2 recommendation have not fully addressed this issue. Because the values for Metrics 6a and 6b deviate notably from the 100% goal, this Element remains an Area for State Improvement.

Relevant metrics 6a: Inspection reports reviewed that provide sufficient documentation to determine compliance at the facility: 28/31 = 90%.

6b: Inspection reports completed within prescribed timeframes: 22/34 = 65%

State response Regarding the recommendation that the state ensure Inspection Reports are completed in a timely manner, this was a finding in the previous SRF report, and the state has implemented procedures to ensure inspection reports are completed in a timely manner. However, there was overlap between when the state received the final report from the previous SRF (March 2011) and the review period for this current SRF (FY2011) October 2010-September 2011. Therefore, changes implemented by the state to ensure timeliness were not fully represented in the assessed period.

Recommendation DENR should continue to implement revised procedures which ensure that Inspection Reports include all required elements and that Inspection Reports are completed in a timely manner. EPA's CWEB will assess progress in implementation of the improvements through existing oversight calls and other periodic reviews. If by September 30, 2014, these periodic reviews indicate that sufficient improvement in preparing

and finalizing Inspection Reports is observed, this recommendation will be considered complete.

CWA Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1 **Meets Expectations**

Description The inspection reports reviewed were found to lead to an accurate compliance determination.

Explanation Metric 7e addresses inspection reports reviewed that led to an accurate compliance determination. Of the 34 files containing inspection reports, 31 contained reviewable compliance determinations. Of these 31 files with compliance determinations, 28 (90%) of the files led to an accurate compliance determination. As noted in the CWA SRF Plain Language Guide, if a report is not generally complete, it may still contain sufficient documentation to determine compliance. Numerous DENR inspection reports did not contain “complete” information (i.e., lack of a regulatory citation in the inspection report, unsigned or undated reports, etc.) as noted in Element 6, but did contain “sufficient” documentation to determine compliance.

Relevant metrics 7e: Inspection reports reviewed that led to an accurate compliance determination: 28/31 = 90%

- National Goal 100%

State response No comment on this finding.

Recommendation

CWA Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1 Meets Expectations

Description DENR’s identification, reporting and tracking of major facilities in SNC and single-event violations (SEVs) that were determined as a result of an inspection meet expectations.

Explanation Data Metric 8a2 is a Review Indicator Metric that addresses the percent of major facilities in SNC. DENR identified that 15% of their major facilities are in SNC – the National Average is 22%. Metric 8b addresses the percentage of SEVs that are accurately identified as SNC or non-SNC. The file review identified 5 instances of SEVs that resulted from the State’s inspections. Of these 5 instances, 100% were accurately reflected as SNC or non-SNC. Metric 8c addresses the percentage of SEVs identified as SNC that are reported timely at major facilities. There were no major facility SNCs that were identified as SEVs, therefore, a finding for this metric is not applicable.

Relevant metrics 8a2: Percent of Major Facilities in SNC: 15%

- National Average: 22%

8b: Percentage of Single-Event Violations that are accurately identified as SNC or non-SNC: 5/5 = 100%.

- National Goal 100%

8c: Percentage of SEVs identified as SNC that are reported timely at major facilities: NA

- National Goal 100%

State response No comment on this finding.

Recommendation

CWA Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1 Area for State Improvement

Description Enforcement actions do not consistently result in violators returning to compliance.

Explanation File Review Metric 9a shows the percentage of enforcement responses that have returned or will return a non-compliant major facility to compliance. From a review of the files, 63% (12 of 19) of the major facilities had documentation in the files showing that the facility had returned to compliance, or that the enforcement action required the facility to return to compliance within a certain timeframe. The State’s Civil Penalty Assessments (CPAs) that are issued do not regularly indicate nor document that corrective action is required to remedy non-compliance and do not indicate a timeframe for a return to compliance. Of the 19 major facilities in non-compliance, 8 of the facilities for which a Notice of Violation (NOV)/CPA was issued had a single Discharge Monitoring Report (DMR) exceedance. The OTIS DFR for these facilities indicated that no further exceedances were reported for the pollutant of concern indicating that the facility had apparently returned to compliance despite the lack of required corrective action or a timeframe for a return to compliance in the CPA. Since these 8 facilities appear to have been returned to compliance, they were considered as part of the 12 facilities showing a return to compliance. Of the remaining 4 facilities showing a return to compliance, 3 noted corrective actions to be taken by the facility in the NOV/CPA and the facilities did appear to return to compliance; and 1 facility was issued a Special Order by Consent that did include required corrective actions and a timeline for return to compliance. Of the 7 facilities that did not have documentation of a return to compliance, there was either no enforcement response in the file, or CPAs/NOVs were issued that did not contain required corrective actions or timeframes for a return to compliance and the OTIS DFRs reflected continued noncompliance. The degree to which the State’s enforcement actions promoted a return to compliance was an issue that was raised during the Round 2 SRF review. Since the steps taken by the State in response to the Round 2 recommendation have not fully addressed this issue, this Element remains an Area for State Improvement.

Relevant metrics 9a: Percentage of enforcement responses that returned or will return a source in violation to compliance: 12/19 = 63%

- National Goal 100%

State response

In 2011 the state began implementing two new types of formal enforcement actions. The tools to address facilities that have continuing non-compliance are either a settlement agreement for civil penalty assessments with compliance dates or a Duty to Mitigate Corrective Action Plan. Since the SRF Round 2 report was received after the beginning of evaluated date period of Round 3, use of these new tools was not reflected in the facility files selected. State statute and rule do not allow for the issuance of orders by consent for operational (no treatment upgrade required issues) and orders without consent require a vote by the Environmental Management Commission and could not be issued in a timely manner. DWQ has and may again consider requesting delegation of this type of order.

Recommendation

The State should continue to take steps to improve the timeliness and appropriateness of SNC addressing actions by taking formal enforcement actions that include injunctive relief, compliance schedules, and other conditions of formal enforcement. The timeliness and appropriateness of SNC addressing actions will be monitored by the CWEB through the existing oversight calls between DENR and EPA and other periodic reviews. If by September 30, 2014, these reviews indicate that the State is taking formal enforcement actions that include injunctive relief, compliance schedules and other conditions of formal enforcement, the recommendation will be considered complete.

State response SNCs were addressed in a timely and appropriate manner by the state 18% of the time, exceeding the national average of 15.4%. The state has developed new enforcement tools to assist in addressing SNC violations. However, there was overlap between when the state received the final report from the previous SRF (March 2011) and the review period for this current SRF (FY2011) October 2010-September 2011; therefore, changes implemented by the state to ensure timeliness were not fully represented in the assessed period.

Recommendation DENR should continue to implement revised procedures to improve the timeliness and appropriateness of SNC addressing actions, including formal enforcement responses that include injunctive relief, compliance schedules and other conditions of formal enforcement. These procedures should identify and address the causes that contribute to actions that are not timely or appropriate, and should include notification to EPA when the complexity of a case may warrant additional time, and identify other enforcement mechanisms available when negotiations become protracted. The timeliness and appropriateness of SNC addressing actions will be monitored by the CWEB through the existing oversight calls between DENR and EPA. If by September 30, 2014, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered complete.

are evaluated for both gravity and economic benefit (using the BEN model or a state method that is equivalent to and consistent with national policy), and that the evaluation is documented in the State's penalty calculations. The State's progress in improving the documentation of penalty calculations will be monitored by the CWEB through the existing oversight calls between DENR and EPA. If by September 30, 2014, these periodic reviews indicate progress toward meeting the national goal, the recommendation will be considered complete.

CWA Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1	Area for State Attention
Description	DENR’s enforcement actions did not regularly document the rationale for any difference between the initial and final assessed penalty and did not regularly provide information documenting the collection of all final penalties.
Explanation	Metric 12a provides the percentage of enforcement actions that documented the difference and rationale between the initial and final assessed penalty. Of the 26 enforcement actions reviewed, 22 files (85%) provided documentation between the initial and final assessed penalty. In the 4 instances where the differences between the initial and final penalties were not documented, the amount of the penalty that was reduced or remitted was not in the file documentation. The State’s CPAs provide an opportunity for the facility owner/operator to submit a written request for remission of all or a portion of the penalty assessed. The 4 instances noted above, did not contain file documentation or the rationale for the State’s actions on these remission requests. Metric 12b provides the percentage of enforcement files reviewed that document the collection of a penalty. Of the 25 cases evaluated, 20 (80%) of the cases documented the collection of the penalty. It is also interesting to note that many of these enforcement cases with penalties involved remitted penalty amounts. Additionally, as noted in Element 2, thirteen of these cases had the penalty assessment amount entered into ICIS but not the remitted or reduced penalty amount that was paid.
Relevant metrics	12a: Documentation of the difference between the initial and final penalty and rationale: 22/26 (85%) <ul style="list-style-type: none">• National Goal 100% 12b: Penalties collected: 20/25 (80%) <ul style="list-style-type: none">• National Goal 100%
State response	The lack of documentation for penalties collected was a staff training issue and has been addressed and corrected.
Recommendation	

Clean Air Act Findings

CAA Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

Finding 1-1 **Meets Expectations**

Description DENR has entered all of their minimum data requirements (MDRs) into the AFS; although, frozen data does not reflect corrections made to stack test data in response to EPA’s Round 2 recommendation, further review indicates that AFS now reflects the corrected stack test data.

Explanation Element 1 of the SRF is designed to evaluate the extent to which the State enters MDRs into the national data system. No issues were identified in the Data Metrics Analysis (DMA) for the majority of the Element 1 metrics. However, the values for metrics 1i1, 1i2, & 1i3 (all “0”) do not reflect corrections made by DENR to address one of EPA’s Round 2 recommendations. DENR advises that they could not make the necessary corrections to their data system until EPA finalized changes to the Information Collection Request (ICR) in January 2012. DENR completed computer code modifications and data corrections in June 2012, but this was after the data was frozen in March 2012. Therefore, DENR’s corrections were not reflected in the DMA data pull for the Round 3 SRF review. EPA has verified that the stack test data is correct in AFS, as reflected by the current production data values below:

- 1i1 – Number of Stack Tests with Passing Results: 187
- 1i2 – Number of Stack Tests with Failing Results: 3
- 1i3 – Number of Stack Tests with Pending Results: 7

EPA recognizes the extensive efforts made by DENR to their data systems to address the stack test reporting problem. In consideration of the concerns raised by DENR in their state comments and based on further review, EPA has determined this element Meets Expectations.

Relevant metrics 1i1 – Number of Stack Tests with Passing Results: 0
1i2 – Number of Stack Tests with Failing Results: 0
1i3 – Number of Stack Tests with Pending Results: 0

State response The North Carolina DAQ has corrected all source test reporting issues as timely as possible. The issues arose out of erroneous instruction from EPA Region 4. As indicated in EPA’s narrative, there is nothing left for DAQ to correct and therefore the finding of “Area for State Attention” should be changed to “Meets Expectations”

Recommendation

CAA Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1 Area for State Attention

Description The MDR data reported by DENR into AFS is generally accurate. However, discrepancies between the files and AFS were identified in 20% of the files reviewed.

Explanation File Review Metric 2b indicates that 28 of the 35 files reviewed (80%) documented all MDRs being reported accurately into AFS. The remaining seven files had one or more discrepancies identified. A number of files had inaccurate or missing air program codes (e.g. MACT, NSPS) or subparts in AFS. Others had discrepancies related to key activities (PCE, NOV, etc.) versus what was reported in AFS. Finally, several files had minor discrepancies such as an incorrect zip, SIC, etc. This incorrect data in AFS could result in inaccurate information being released to the public, and it could potentially hinder EPA's oversight and targeting efforts. Although some of these data accuracy issues were identified as an Area for State Improvement during the Round 2 SRF review, the state has made progress in improving the accuracy of their data in AFS. Since these are infrequent deficiencies that do not constitute a significant pattern and the State has self-corrected, this Element is designated as an Area for State Attention.

Relevant metrics 2b – Accurate MDR Data in AFS: $28/35 = 80\%$

- National Goal 100%

State response The EPA's AFS Minimum Data Requirements (MDRs) encompass 26 items per facility, of which there may be multiple entries for a specific MDR at each facility (multiple air programs, multiple subparts within an air program, pollutants, actions, etc). The review of NC DAQs files relative to our AFS data indicated that there were 7 of 35 facilities with at least 1 of 26 elements in error, yielding a data accuracy of 80%. To clarify, a single MDR error would create a 2.9% error rate. Considering that there are 26 MDRs, the error rate is not representative of all MDRs. The errors that EPA identified and DAQs correction:

Facility 2 – SIC code in permit differed from AFS - neither SIC code is incorrect for the facility, but we have made them consistent.

Facility 8 – NSPS subpart missing from AFS – subpart has been added to AFS.

Facility 9 - NSPS subpart missing from AFS – subpart has been added to AFS.

Facility 11 - NSPS subpart missing from AFS – subpart has been added to AFS.

Facility 22 – Landfill is owned by the government, but coded as a private entity - DAQ has coded facility as government owned.

Facility 24 - NOV date shown as 12/3/10 in AFS, but 12/7/10 in file – The NOV was written and entered into our data system on a Friday. The supervisor signed the NOV the following Tuesday.

Recommendation

CAA Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

Finding 3-1 **Meets Expectations**

Description MDRs are being entered timely into AFS.

Explanation The data metrics for Element 3 indicate that DENR is entering MDRs for compliance monitoring and enforcement activities into AFS within the appropriate timeframe. EPA notes with respect to Metric 3b2 that DENR’s increase in upload frequency from the State data system to AFS appears to have contributed to improved timeliness of stack test MDRs. Although one HPV determination was entered late, the overall rate of timely entry is 92% (11 of 12). Therefore, this element Meets Expectations.

Relevant metrics 3a1 – Timely Entry of HPV Determinations: 11
 3a2 – Untimely Entry of HPV Determinations: 1
 • National Goal: 0
 3b1 – Timely Reporting of Compliance Monitoring MDRs:
 1217/1246 = 97.6%
 • National Goal 100%
 3b2 – Timely Reporting of Stack Test MDRs: 189/198 = 95.4%
 • National Goal 100%
 3b3 – Timely Reporting of Enforcement MDRs: 152/160 = 95%
 • National Goal 100%

State response NC DAQ has increased our data upload frequency to twice per month in an effort to meet the timely data entry associated with source test data. MACT testing is very prevalent. MACT sources have 60 days from the date of the test to submit the report, as compared to 30 days for most other sources. Since the state must review and submit results to the EPA within 120 days of the test, the state has only 60 days to review more complicated MACT testing. Due to the nature of monthly uploads, a test could be reviewed a day after the upload and exceed the 120 days (effectively 60 days) review and reporting requirement. Therefore, we have decided to expend additional staff time and therefore money to report twice per month in order to more fully comply with the reporting requirement.

Recommendation

CAA Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 Meets Expectations

Description DENR met all enforcement and compliance commitments outlined in their FY 2010/2011 Compliance Monitoring Strategy (CMS) Plan and their FY 2011 Air Planning Agreement.

Explanation Element 4 evaluates whether the State met its obligations under the CMS plan and the Air Planning Agreement (APA) with EPA. DENR follows a traditional CMS plan, which requires them to conduct a full compliance evaluation (FCE) every 2 years at Major sources and every 5 years at Synthetic Minor 80% (SM80) sources. DENR met these obligations by completing 100% of planned FCEs at both Major and SM80 sources. In addition, DENR met all of its enforcement and compliance commitments (100%) under the FY 2011 Air Planning Agreement with EPA Region 4. Therefore, this element Meets Expectations.

Relevant metrics 4a1 – Planned Evaluations Completed: Title V Major FCEs: 311/311=100%

- National Goal 100%

4a2 – Planned Evaluations Completed: SM80 FCEs: 640/640=100%

- National Goal 100%

4b – Planned Commitments Completed: CAA compliance and enforcement commitments other than CMS commitments: 12/12=100%

- National Goal 100%

State response NC DAQ strives to inspect all Major and Synthetic Minor facilities each year. We believe that this level of contact with facilities provides better compliance assistance and either reduces violations or reduces the duration of violations. In addition, we strive to inspect all minor sources once every two years.

Recommendation

CAA Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1 **Meets Expectations**

Description DENR met the negotiated frequency for compliance evaluations of CMS sources and reviewed Title V Annual Compliance Certifications.

Explanation Element 5 evaluates whether the negotiated frequency for compliance evaluations is being met for each CMS source, and whether the State completes the required review of Title V Annual Compliance Certifications. DENR met the national goal for all of the relevant metrics, so this element Meets Expectations.

Relevant metrics 5a – FCE Coverage Major: 303/303 = 100%
 • National Goal 100%
 5b – FCE Coverage SM-80: 626/626 = 100%
 • National Goal 100%
 5e – Review of Title V Annual Compliance Certifications Completed:
 271/283 = 95.8%
 • National Goal 100%

State response NC DAQ exceeds the national requirements by setting a goal to inspect and complete an FCE at all TV and SM sources every year. Additionally, we plan to physically inspect all minor facilities once every two years. We believe that the compliance assistance and guidance that we can provide during these inspections greatly assists facilities in understanding our rules, their permit and compliance with the permit. We believe that this level of contact with facilities provides better compliance assistance and either reduces violations or reduces the duration of violations.

Recommendation

CAA Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1 Meets Expectations

Description Facility files document the completion of required FCE elements, and compliance monitoring reports (CMRs) provide sufficient documentation to determine compliance at the facility.

Explanation Element 6 evaluates the extent to which state compliance evaluations document all the elements of an FCE required by the CMS Guidance and provide an adequate assessment and documentation of facility operations such that an appropriate compliance determination can be made. DENR met the national goal for all relevant metrics, so this element Meets Expectations.

Relevant metrics 6a – Documentation of FCE elements: 34/35 = 97.1%
• National Goal 100%
6b – Compliance Monitoring Reports (CMRs) that provide sufficient documentation to determine compliance of the facility: 34/35 = 97.1%
• National Goal 100%

State response No comment on this finding.

Recommendation

CAA Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1	Area for State Attention
Description	In a few instances, compliance determinations were not accurately reported into AFS, or compliance could not be adequately determined based on inspection reports and other compliance monitoring information.
Explanation	For 4 of the 35 sources reviewed (11%) during the file review, EPA identified concerns with DENR’s compliance determination. DENR identified a violation at three of the sources and issued an NOV, but the compliance status in AFS was not changed to reflect this. The fourth source did not have sufficient information in the inspection report for EPA to evaluate the State’s compliance determination. Since this situation does not constitute a significant pattern of deficiencies, and the State can self-correct without additional EPA oversight, this is designated as an Area for State Attention.
Relevant metrics	7a – Accuracy of Compliance Determinations: $31/35 = 88.6\%$ <ul style="list-style-type: none">• National Goal 100% 7b1 – Alleged Violations Reported Per Informal Enforcement Actions: $106/118 = 89.8\%$ <ul style="list-style-type: none">• National Goal 100% 7b2 – Alleged Violations Reported Per HPV Identified: $8/10 = 80\%$ <ul style="list-style-type: none">• National Goal 100%
State response	Compliance status was not changed due to a programming error in our data system that specifically affected late TV ACCs or other procedural violations that were assigned to the generic pollutant rather than a violation that could be pinned to a specific pollutant. Programming changes were completed March 2013 to correct this error.
Recommendation	

CAA Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1 Meets Expectations

Description DENR and EPA Region 4 jointly determine which violations are HPVs, and EPA enters them into AFS per mutual agreement in the Air Planning Agreement. As a result, HPVs are accurately identified and entered into the national system in a timely manner.

Explanation Element 8 is designed to evaluate the accuracy and timeliness of the State’s identification of high priority violations. DENR met the national goal for all relevant metrics, so this element Meets Expectations.

Relevant metrics 8c – Accuracy of HPV Determinations: 12/12 = 100%
• National Goal 100%

State response No comment on this finding.

Recommendation

CAA Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1	Meets Expectations
Description	Enforcement actions include required corrective action that will return facilities to compliance in a specified timeframe.
Explanation	All enforcement action files reviewed (13 of 13) returned the source to compliance. For enforcement actions that were penalty only actions, the files documented the actions taken by the facility to return to compliance prior to issuance of the penalty. DENR met the national goal for all relevant metrics, so this element Meets Expectations.
Relevant metrics	9c – Formal enforcement returns facilities to compliance: 13/13 = 100% <ul style="list-style-type: none">• National Goal 100%
State response	No comment on this finding.
Recommendation	

CAA Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1 Meets Expectations

Description HPVs are being addressed in a timely and appropriate manner.

Explanation Element 10 is designed to evaluate the extent to which the State takes timely and appropriate action to address HPVs. DENR met the national goal for all relevant metrics, so this element Meets Expectations.

Relevant metrics 10a – Timely action taken to address HPVs: 13/13 = 100%

- National Goal 100%

10b – Appropriate Enforcement Responses for HPVs: 12/13 = 92.3%

- National Goal 100%

State response NC DAQ applied our Tiered Enforcement policy as required by state law. Under Tiered Enforcement, a first time record-keeping violation did not rise to the level of an HPV.

Recommendation

CAA Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding 11-1 **Area for State Improvement**

Description Initial penalty calculations do not adequately document the consideration of economic benefit using the BEN model or other method to produce results consistent with national policy and guidance.

Explanation File Review Metric 11a indicates that only one out of 13 files (7.7%) provided adequate documentation of the State’s consideration of economic benefit. Where economic benefit was considered, there was no evidence that the BEN model or similar was used to calculate it. The Clean Air Act Section 113(e)(1) requires EPA to consider the economic benefit of noncompliance in assessing Federal penalties. In addition, the requirement for delegated programs to document the calculation and recovery of economic benefit is reinforced in the 1993 Steve Herman memo entitled “Oversight of State and Local Penalty Assessments: Revisions to the Policy Frame work from State/EPA Enforcement Agreements.” In addition, though it does not apply directly to State penalties, EPA’s “Clean Air Act Stationary Source Civil Penalty Policy” provides additional guidance on the recovery of economic benefit under the CAA. The failure to document consideration of economic benefit was identified as an Area for State Attention during the Round 2 SRF review. Therefore, this element is designated as an Area for State Improvement.

Relevant metrics 11a – Penalty calculations reviewed that consider and include gravity and economic benefit: 1/13 = 7.7%

- National Goal 100%

State response North Carolina General Statute GS 143B-282.1(b) requires the program to consider both the economic benefit and gravity in penalty calculations. NCDAQ will continue to follow the statutory factors when assessing penalties, and will follow the penalty tree developed for specific violations. NCDAQ will use the BEN model when it is deemed appropriate to do so.

Recommendation By December 31, 2013, DENR should submit and implement procedures to ensure appropriate documentation of both gravity and economic benefit in penalty calculations, appropriately using the BEN model or other method that produces results consistent with national policy. For verification purposes, all final penalty worksheets for federally reportable violations should be submitted to AEEB for review for the six months following issuance of the final SRF report. If, by March 31, 2014, appropriate penalty calculation documentation is being observed, this

recommendation will be considered completed.

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

Finding 1-1 **Meets Expectations**

Description DENR’s Minimum Data Requirements for compliance monitoring and enforcement activities were complete in RCRAInfo.

Explanation RCRA Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo, which is the National Database for the RCRA Program. EPA provided the FY 2011 RCRA data metric analysis (DMA) to DENR in September 2012. No issues were identified for Element 1 in the DMA, so this element Meets Expectations.

Relevant metrics

State response No comment on finding.

Recommendation

RCRA Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1 Meets Expectations

Description The majority of relevant information for compliance and enforcement data was included in the files and accurately entered into RCRAInfo.

Explanation In the RCRA Enforcement Response Policy (ERP), a secondary violator (SV) should be resolved within 240 days or elevated to a significant non-complier (SNC) status. In the RCRA DMA for DENR, data metric 2a indicated that there were five SV facilities that had violations open for longer than 240 days. The state evaluated the list of SVs and established root causes for the longstanding SVs:

- Two facilities that did not have complete return to compliance data entered;
- One facility that was referred to Superfund;
- One facility that needed additional time to certify compliance;
- One facility that should have been elevated to SNC status, but was impacted by another ongoing federal agency enforcement action. The facility has since entered into a consent agreement, and SNC information has since been entered into RCRAInfo.

File Review Metric 2b verifies that data in the file is accurately reflected in RCRAInfo. A file is considered inaccurate if the information about the facility regulatory status, the inspection reports, enforcement actions, or compliance documentation is missing or reported inaccurately in RCRAInfo. For File Review Metric 2b, 40 files were reviewed and 37 files (or 92.5%) had accurate data input into RCRAInfo. Examples of inaccurate data in the remaining three files include incorrect dates or missing information for compliance/enforcement activities. The DMA and file review analysis reflect only minor problems with data accuracy which do not represent systemic problems. EPA considers state performance for data accuracy as meeting SRF expectations.

Relevant metrics	<u>State</u>
2a – Longstanding Secondary Violators	5
2b – Accurate Entry of mandatory data	92.5% (37/40)

State response No comment on finding.

Recommendation

RCRA Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

Finding 3-1 **Unable to evaluate and make a finding**

Description Sufficient evidence to establish a finding for this Element does not currently exist.

Explanation Element 3 measures the timely entry of data into RCRAInfo. The RCRA ERP requires all violation data to be entered by Day 150 from the first day of inspection, and other types of data entered by timelines established in state policies, MOAs, PPA/PPGs, etc.

In reviewing files, there is no method of determining *when* data was entered into RCRAInfo, only if the data was accurate (covered under Element 2). RCRAInfo does not have a date stamp to show when data is entered, therefore a determination of timely data entry could not be made.

Relevant metrics

State response No comment on finding.

Recommendation

RCRA Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 **Meets Expectations**

Description North Carolina met the FY 2011 Grant commitments for non-inspection commitments.

Explanation Metric 4a measures the percentage of non-inspection commitments completed in the fiscal year of the SRF review, such as compliance assistance and enforcement actions. In their FY 2011 grant workplan, DENR committed to 65 compliance assistance visits and 8 formal administrative enforcement actions. DENR’s FY 2011 End-of-Year report documented that the state met both of these commitments.

Relevant metrics 4a - Planned non-inspection commitments completed 100%

State response No comment on finding.

Recommendation

RCRA Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1 Area for State Improvement

Description DENR did not meet the five-year inspection coverage for Large Quantity Generators (LQGs).

Explanation Element 5 measures three types of required inspection coverage that are outlined in the EPA RCRA Compliance Monitoring Strategy: (1) 100% coverage of operating Treatment Storage Disposal (TSD) facilities over a two-year period, (2) 20% coverage of LQGs every year, and (3) 100% coverage of LQGs every five years. As indicated in the DMA, DENR met the TSD and one-year LQG inspection coverage. The five-year LQG inspection coverage was 68.5%, which is significantly below the national goal of 100% inspection coverage. There were 167 LQGs that were not inspected between FY 2007-FY 2011, and 165 of these facilities are part of the North Carolina Dry Cleaner & Solvent Clean-up program. A review of the 2011 RCRA Biennial Reporting system data indicates that the clean-up program facilities did not actually meet the waste generation threshold for LQG status. If these facilities were removed from the LQG universe calculation, the five-year inspection coverage would equate to 99.4%, which meets national goal expectations. North Carolina is evaluating the reclassification of these facilities according to their potential RCRA generator status as Small Quantity Generators or Conditionally Exempt Small Quantity Generators.

Relevant metrics	<u>Data Metric</u>	<u>State</u>	<u>National Goal</u>
	5a – Two-year inspection coverage for operating TSDFs (23/23)	100%	100%
	5b – Annual inspection coverage for LQGs (274/530)	51.7%	20%
	5c – Five-year inspection coverage For LQGs (363/530)	68.5%	100%

State response The total number of facilities not receiving an inspection within five years should be changed to 165 instead of 167 as listed above. The two facilities not in the NC DSCA Program were Piedmont Natural Gas and YRC. Piedmont Natural Gas had been listed as a LQG for approximately two years for this review period. It was originally issued an NCS number (state number) for a complaint. It was later issued an EPA Identification number on 3/6/2009 but the evaluation and enforcement data was not immediately transferred to the newly issued EPA Identification number. This data has been added to RCRAInfo. The other facility listed as a LQG was YRC; it was issued a NCP ID number (state provisional number). YRC notified as a LQG on 3/2/2010 and on 5/17/2010 the generator status was changed to

"NG". Provisional ID numbers are issued for a period of 90 days to aid a facility in an immediate need to handle hazardous waste generation. Therefore, neither facility should have been included in the query. A facility in the NC DSCA Program typically generates hazardous waste as a LQG on an infrequent basis (usually 1-3 months) due to remediation activities. The NC DSCA staff will closely monitor site remediation activities and ensure sites are downgraded from a LQG to the appropriate generator status as required. This action will reduce the total number of active LQGs in RCRAInfo.

Recommendation By December 31, 2013, NCDENR shall re-evaluate the current LQG universe and reclassify the appropriate RCRA generator status, as necessary, any facilities listed as LQGs under the North Carolina Dry Cleaner & Solvent Clean-up program that do not meet LQG generator status. Any of the 167 uninspected LQG facilities (referenced above) that remain in the LQG universe should be inspected by September 30, 2014. In addition, any modifications to the generator universe should be reflected in RCRAInfo and any subsequent RCRA Grant Workplans.

RCRA Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1 Meets Expectations

Description DENR’s inspection reports were completed in a timely manner, and provided sufficient documentation to determine compliance at the facility.

Explanation File Review Metric 6a assesses the completeness of inspection reports and whether the reports provide sufficient documentation to determine compliance at the facility. Of the inspection reports reviewed, 94.1% (32 of 34) were complete and had sufficient documentation to determine compliance at the facility. The reports were consistently thorough in the inspection findings, and had supporting documentation and photographs included in the reports. File Review Metric 6b measures the timely completion of inspection reports. DENR does not have a state-specific timeline for the completion of inspection reports, so the RCRA ERP timeline of 150 days was used as a timeline. According to the ERP, violation determination should be made within 150 days of the first day of inspection. In the file review, it was found that 100% of the reports were completed in this timeframe.

Relevant metrics	<u>File Metric</u>	<u>State</u>	<u>National Goal</u>
	6a – Percentage of inspection reports that are complete and provide documentation to determine compliance (32/34)	94.1%	100%
	6b – Percentage of inspection reports that are completed timely (33/33)	100%	100%

State response No comment on finding.

Recommendation

RCRA Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1 Meets Expectations

Description North Carolina makes accurate RCRA compliance determinations.

Explanation File Review Metric 7a assesses whether accurate compliance determinations were made based on a file review of inspection reports and other compliance monitoring activity. The file review indicated that 97.5% of the facilities (39 of 40) had accurate compliance determinations. Data Metric 7b is a review indicator that evaluates the violation identification rate for inspections conducted during the year of review. In the DMA, DENR’s violation identification rate for FY 2011 was 6.2%, which was significantly below the national average of 32.5%. The low identification rate was initially identified as a concern by EPA, in the event that the state was not properly identifying violations during compliance monitoring activities. During the file review, EPA evaluated inspections and related compliance monitoring activity to examine if violations were not being identified correctly. It was found that DENR makes accurate compliance determinations, and meets the SRF expectations for the compliance monitoring activities reviewed. DENR’s high RCRA compliance rate may be attributed to the state’s longstanding compliance assistance and outreach programs. Historically, the state has held RCRA LQG workshops to ensure proper management of hazardous waste at these regulated facilities, as well as pre-compliance visits to newly regulated RCRA LQGs to provide guidance on policy and compliance expectations. There is also continuous compliance assistance and outreach to all of the RCRA regulated community through other programs and site visits throughout the year.

Relevant metrics	<u>File Metric</u>	<u>State</u>	<u>National Goal</u>
	7a – Percentage of inspection reports that led to accurate compliance determination (39/40)	97.5%	100%
	Data Metric 7b – Violations found during inspection	6.2%	N/A

State response No comment on finding.

Recommendation

RCRA Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1 Meets Expectations

Description North Carolina correctly identified the majority of SNCs facilities, and entered the SNC data into RCRAInfo in a timely manner.

Explanation Data Metric 8a identifies the percent of facilities that received a SNC designation in FY 2011, the year of data reviewed for DENR’s SRF evaluation. In the DMA, DENR’s SNC identification rate was 1.2% which was below the national average of 2.1%. In the DMA the low SNC identification rate was identified as a potential concern, in the event that the state was not properly identifying SNC facilities. During the file review, EPA evaluated inspections and related compliance monitoring activity to examine if SNCs were not being identified correctly. It was found that DENR makes accurate SNC determinations, as 93.8% of the SNC determinations were found to be accurate in the file review (as discussed in Metric 8c below). Data Metric 8b measures the number of SNC determinations that were made within 150 days of the first day of inspection. Timely SNC designation is important so that significant problems are addressed in a timely manner. In FY 2011, DENR reported 93.3% (14 of 15) of their SNC designations by Day 150, near to the national goal of 100%. File Review Metric 8c measures the percentage of violations in the files that were accurately determined to be a SNC. Of the files reviewed, there was only one facility that was SNC-caliber, but was designated a Secondary Violator by the state and the violations were addressed through informal enforcement. Thus, the percentage of files reviewed where the violation was accurately determined to be a SNC was 93.8% (15 of 16 SNC facilities). Overall, North Carolina meets the SRF expectations for the correct identification of significant noncompliance and the timely entry of SNC data into RCRAInfo.

Relevant metrics	<u>State</u>	<u>National Goal</u>
8a – SNC identification rate	1.2%	N/A
8b – Percentage of SNC determinations entered into RCRAInfo by Day 150 (14/15)	93.3%	100%
8c – Percentage of violations in files reviewed that were accurately determined to be SNCs (15/16)	93.8%	100%

State response No comment on finding.

Recommendation

RCRA Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1 **Meets Expectations**

Description North Carolina consistently issues enforcement responses that have returned or will return a facility in SNC or SV to compliance.

Explanation File Review Metric 9a shows the percentage of SNC enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. From a review of the files, 100% (15 of 15) of the SNC facilities had documentation in the files showing that the facility had returned to compliance, or that the enforcement action required the facility to return to compliance within a certain timeframe. File Review Metric 9b gives the percentage of SV enforcement responses reviewed that have documentation that the facility has returned or will return to compliance. In the files review 100% of the SVs (16 of 16) had documentation showing that the facility had returned to compliance, or that the enforcement action required them to return to compliance within a certain timeframe. Overall, North Carolina meets the SRF expectations for the issuance of enforcement actions that return facilities to compliance.

Relevant metrics	<u>File Metric</u>	<u>State</u>	<u>National Goal</u>
	9a - Percentage of enforcement responses that have or will return site in SNC to compliance (15/15)	100%	100%
	9b - Percentage of enforcement responses that have or will return a SV to compliance (16/16)	100%	100%

State response No comment on finding.

Recommendation

RCRA Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1 Meets Expectations

Description DENR takes timely and appropriate enforcement actions.

Explanation Data Metric 10a indicated that DENR completed 88.9% (8 of 9) of the formal enforcement actions at SNC facilities within 360 days of the first day of inspection, the timeline outlined in the RCRA ERP. DENR exceeded the national goal of 80% of enforcement actions meeting this timeline. File Review Metric 10b assesses the appropriateness of enforcement actions for SVs and SNCs, as defined by the RCRA ERP. In the files reviewed 96.8% of the facilities with violations (30 of 31) had an appropriate enforcement response to addressing the identified violations. There was one facility that should have been designated as a SNC that was addressed as an SV through informal enforcement response. Overall, North Carolina meets the SRF expectations for taking timely and appropriate enforcement actions.

Relevant metrics	<u>Data Metric</u>	<u>State</u>	<u>National Goal</u>
	10a: Timely enforcement to address SNCs (8/9)	88.9%	80%
	File Metric		
	10b: Percentage of files with appropriate enforcement responses (30/31)	96.8%	100%

State response No comment on finding.

Recommendation

RCRA Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding 11-1 Area for State Improvement

Description North Carolina’s penalties included a gravity component in each enforcement case reviewed. There was no consideration of economic benefit in any RCRA penalty calculations.

Explanation Element 11a examines the state documentation of penalty calculations. Specifically, file review metric 11a determines if the state penalty includes *both* gravity and economic benefit considerations. Eleven penalty calculations were reviewed, and all included a gravity component in the penalty calculation, however none of penalties included the consideration of economic benefit. This issue was identified as an Area for State Improvement in the SRF Round 2 report, which indicated that the North Carolina Hazardous Waste penalty authority does not specifically include a provision for assessing penalties for the economic benefit of noncompliance. This finding will continue to be an Area for State Improvement in the SRF Round 3, as 0% of the enforcement cases reviewed had the complete penalty documentation for both gravity and economic benefit of noncompliance. In October 2012, DENR drafted proposed legislation for the 2013 North Carolina Legislative session to amend the Hazardous Waste Penalty Computation Authority “*to add monetary saving resulting from noncompliance to the factors to be considered in setting administrative penalties for violations of the Hazardous Waste law and regulations.*” The recovery of economic benefit is essential in removing incentives for noncompliance, and DENR has taken appropriate steps to pursue this provision in their penalty authority.

Relevant metrics	<u>State</u>	<u>National Goal</u>
11a – Penalty calculations consider and include a gravity and economic benefit (0 of 11)	0%	100%

State response North Carolina will continue to monitor the proposed legislation that will include economic benefit in penalty calculations. DENR will notify EPA when legislative approval is given.

Recommendation EPA encourages DENR to continue to monitor and advance the proposed legislation to include economic benefit in penalty calculations, to the extent possible. If legislation is approved, DENR should alert EPA on next steps for incorporation of economic benefit considerations into penalty calculations.

RCRA Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1 Meets Expectations

Description The majority of DENR enforcement actions provided the rationale between the initial and final assessed penalty. There was documentation of all final penalty collections.

Explanation Metric 12a provides the percentage of formal enforcement actions that documented the difference and rationale between the initial and final assessed penalty. A total of 17 enforcement actions were reviewed, and 16 of the cases, or 94.1% included a rationale for any penalty adjustments. Rationale for penalty adjustments are essential in maintaining consistency and providing transparency; noting offsets for supplemental environmental projects or inability to pay issues; and ensuring that the final penalties recover any economic benefit due to noncompliance. Metric 12b provides the percentage of enforcement files reviewed that document the collection of a penalty. In 100% of the files reviewed, there was evidence that DENR had collected penalties, or were in the process of seeking collection of penalties from enforcement actions. DENR met the national goals for all of the relevant metrics, and this element Meets Expectations.

Relevant metrics	<u>State</u>	<u>National Goal</u>
12a – Formal enforcement actions that document the difference and rationale between the initial & final penalty (16 of 17)	94.1 %	100%
12b – Final formal actions that documented the collection of a final penalty (17 of 17)	100%	100%

State response No comment on finding.

Recommendation

Appendix A: Data Metric Analysis

Attached below are the results of the SRF data metric analyses. All data metrics are analyzed prior to the on-site file review. This provides reviewers with essential advance knowledge of potential problems. It also guides the file selection process as these potential problems highlight areas for supplemental file review.

The initial findings are preliminary observations. They are used as a basis for further investigation during the file review and through dialogue with the state. Where applicable, this analysis evaluates state performance against the national goal and average. Final findings are developed only after evaluating the data alongside file review results and details from conversations with the state. Through this process, initial findings may be confirmed or modified. Final findings are presented in Section III of this report.

Clean Water Act

Metric ID	Metric Name	Metric Type	Agency	National Goal	National Average	North Carolina	Count	Universe	Not Counted	Initial Findings	Explanation
1a1	Number of Active NPDES Majors with Individual Permits	Data Verification	State			220				Meets Expectations	
1a2	Number of Active NPDES Majors with General Permits	Data Verification	State			0					
1a3	Number of Active NPDES Non-Majors with Individual Permits	Data Verification	State			1,024				Meets Expectations	
1a4	Number of Active NPDES Non-Majors with General Permits	Data Verification	State			4,902				Meets Expectations	

	1b1	Permit Limits Rate for Major Facilities	Goal	State	>= 95%	98.6%	100%	220	220	0	Meets Expectations	
	1b2	DMR Entry Rate for Major Facilities.	Goal	State	>= 95%	96.5%	99.7%	5,126	5,139	13	Meets Expectations	
	1b3	Number of Major Facilities with a Manual Override of RNC/SNC to a Compliant Status	Data Verification	State			8				Meets Expectations	
	1c1	Permit Limits Rate for Non-Major Facilities	Informational only	State		66.1%	96.4%	987	1,024	37		
	1c2	DMR Entry Rate for Non-Major Facilities.	Informational only	State		72.6%	7.7%	980	12,726	11,746		
	1e1	Facilities with Informal Actions	Data Verification	State			504				Meets Expectations	
	1e2	Total Number of Informal Actions at CWA NPDES Facilities	Data Verification	State			3,340				Meets Expectations	
	1f1	Facilities with Formal Actions	Data Verification	State			213				Meets Expectations	

	1f2	Total Number of Formal Actions at CWA NPDES Facilities	Data Verification	State			1648				Meets Expectations	
	1g1	Number of Enforcement Actions with Penalties	Data Verification	State			405				Meets Expectations	
	1g2	Total Penalties Assessed	Data Verification	State			\$497,582				Meets Expectations	
	2a1	Number of formal enforcement actions, taken against major facilities, with enforcement violation type codes entered.	Data Verification	State			204				Meets Expectations	
	5a1	Inspection Coverage - NPDES Majors	Goal metric	State		54.4%	78.2%	172	220	48	Meets Expectations	
	5b1	Inspection Coverage - NPDES Non-Majors	Goal metric	State		23.7%	51%	522	1,024	502	Meets Expectations	
	5b2	Inspection Coverage - NPDES Non-Majors with General Permits	Goal metric	State		19.2%	18.1%	885	4,902	4017	Meets Expectations	
	7a1	Number of Major Facilities with Single Event	Data Verification	State			6				Meets Expectations	

		Violations										
	7a2	Number of Non-Major Facilities with Single Event Violations	Informational only	State			114					
	7b1	Compliance schedule violations	Data Verification	State			1				Meets Expectations	
	7c1	Permit schedule violations	Data Verification	State			0				Meets Expectations	
	7d1	Major Facilities in Noncompliance	Review Indicator	State		71.2%	55.5%	122	220	98	Meets Expectations	
	7f1	Non-Major Facilities in Category 1 Noncompliance	Data Verification	State			1,057				Meets Expectations	
	7g1	Non-Major Facilities in Category 2 Noncompliance	Data Verification	State			9				Meets Expectations	
	7h1	Non-Major Facilities in Noncompliance	Informational only	State		47.5%	92%	942	1,024	82		
	8a1	Major Facilities in SNC	Review indicator metric	State			42				Meets Expectations	

8a2	Percent of Major Facilities in SNC	Review indicator metric	State		22.3%	15.3%	42	275	233	Meets Expectations	<u>Follow-up:</u> Why is there a difference between the universe of 275 in 8a2 and 220 in 1a1?
10a1	Major facilities with Timely Action as Appropriate	Goal metric	State		15.4%	18.2%	2	11	9	State Improvement	Goal metric is 98% - although NC exceeds the National Average investigate further in file review.

Clean Air Act

Metric ID	Metric Name	Metric Type	Agency	National Goal	National Average	North Carolina	Count	Universe	Not Counted	North Carolina (w/o Locals)	Initial Finding	Explanation
1a1	Number of Active Major Facilities (Tier I)	Data Verification	State			327				299	Meets Expectations	Adjusted from statewide value of 327 to remove local program data
1a2	Number of Active Synthetic Minors (Tier I)	Data Verification	State			763				648	Meets Expectations	Adjusted from statewide value of 763 to remove local program data
1a3	Number of Active NESHAP Part 61 Minors (Tier I)	Data Verification	State			6				4	Meets Expectations	Adjusted from statewide value of 6 to remove local program data
1a4	Number of Active CMS Minors and Facilities with Unknown Classification (Not counted in metric 1a3) that are Federally-Reportable (Tier I)	Data Verification	State			9				8	Meets Expectations	Minor sources included in FY11 CMS plan; <1% of universe; used to select files to ensure district representation; adjusted from statewide value of 9 to remove local program data
1a5	Number of Active HPV Minors and Facilities with Unknown Classification (Not counted in metrics 1a3 or 1a4) that are Federally-Reportable (Tier I)	Data Verification	State			0				0	Meets Expectations	

1a6	Number of Active Minors and Facilities with Unknown Classification Subject to a Formal Enforcement Action (Not counted in metrics 1a3, 1a4 or 1a5) that are Federally-Reportable (Tier II)	Data Verification	State			3				3	Meets Expectations	Sources with formal enforcement actions within prior 3 years are federally reportable; <1% of universe.
1b1	Number of Active Federally-Reportable NSPS (40 C.F.R. Part 60) Facilities	Data Verification	State			595				527	Meets Expectations	Adjusted from statewide value of 595 to remove local program data
1b2	Number of Active Federally-Reportable NESHAP (40 C.F.R. Part 61) Facilities	Data Verification	State			19				9	Meets Expectations	Adjusted from statewide value of 19 to remove local program data
1b3	Number of Active Federally-Reportable MACT (40 C.F.R. Part 63) Facilities	Data Verification	State			525				477	Meets Expectations	Adjusted from statewide value of 525 to remove local program data
1b4	Number of Active Federally-Reportable Title V Facilities	Data Verification	State			311				283	Meets Expectations	Adjusted from statewide value of 311 to remove local program data
1c1	Number of Tier I Facilities with an FCE (Facility Count)	Data Verification	State			1072				959	Meets Expectations	Adjusted from statewide value of 1072 to remove local program data
1c2	Number of FCEs at Tier I Facilities (Activity Count)	Data Verification	State			1076				959	Meets Expectations	Adjusted from statewide value of 1076 to remove local program data

1c3	Number of Tier II Facilities with FCE (Facility Count)	Data Verification	State			0				0	Meets Expectations	
1c4	Number of FCEs at Tier II Facilities (Activity Count)	Data Verification	State			0				0	Meets Expectations	
1d1	Number of Tier I Facilities with Noncompliance Identified (Facility Count)	Data Verification	State			172				160	Meets Expectations	Adjusted from statewide value of 172 to remove local program data
1d2	Number of Tier II Facilities with Noncompliance Identified (Facility Count)	Data Verification	State			2				2	Meets Expectations	
1e1	Number of Informal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State			152				143	Meets Expectations	Adjusted from statewide value of 152 to remove local program data
1e2	Number of Tier I Facilities Subject to an Informal Enforcement Action (Facility Count)	Data Verification	State			124				118	Meets Expectations	Adjusted from statewide value of 124 to remove local program data
1f1	Number of HPVs Identified (Activity Count)	Data Verification	State			12				12	Meets Expectations	
1f2	Number of Facilities with an HPV Identified (Facility Count)	Data Verification	State			11				11	Meets Expectations	

Ig1	Number of Formal Enforcement Actions Issued to Tier I Facilities (Activity Count)	Data Verification	State			15				15	Meets Expectations	
Ig2	Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State			14				14	Meets Expectations	
Ig3	Number of Formal Enforcement Actions Issued to Tier II Facilities (Activity Count)	Data Verification	State			0				0	Meets Expectations	
Ig4	Number of Tier II Facilities Subject to a Formal Enforcement Action (Facility Count)	Data Verification	State			0				0	Meets Expectations	
Ih1	Total Amount of Assessed Penalties	Data Verification	State			\$235,159				\$235,159	Meets Expectations	
Ih2	Number of Formal Enforcement Actions with an Assessed Penalty	Data Verification	State			13				13	Meets Expectations	

111	Number of Stack Tests with Passing Results	Data Verification	State			47				0	State Attention	Adjusted from statewide value of 47 to remove local program data. However, frozen data does not reflect corrections made by NC in FY12 in response to EPA's Round 2 recommendation; NC waited for EPA to finalize changes related to stack test data reporting in the ICR before making modifications to their computer codes; production data value for this metric is 187, so no recommendation is indicated.
112	Number of Stack Tests with Failing Results	Data Verification	State			0				0	State Attention	Frozen data does not reflect corrections made by NC in FY12 in response to EPA's Round 2 recommendation; NC waited for EPA to finalize changes related to stack test data reporting in the ICR before making modifications to their computer codes; production data value for this metric is 3; no recommendation is indicated.

li3	Number of Stack Tests with Pending Results	Data Verification	State			2				0	State Attention	Adjusted from statewide value of 2 to remove local program data. However, frozen data does not reflect corrections made by NC in FY12 in response to EPA's Round 2 recommendation: NC waited for EPA to finalize changes related to stack test data reporting in the ICR before making modifications to their computer codes; production data value for this metric is 7; no recommendation is indicated.
li4	Number of Stack Tests with No Results Reported	Data Verification	State			0				0	Meets Expectations	
li5	Number of Stack Tests Observed & Reviewed	Data Verification	State			170				117	Meets Expectations	Adjusted from statewide value of 170 to remove local program data
li6	Number of Stack Tests Reviewed Only	Data Verification	State			81				80	Meets Expectations	Adjusted from statewide value of 81 to remove local program data
lj	Number of Title V Annual Compliance Certifications Reviewed	Data Verification	State			315				287	Meets Expectations	Adjusted from statewide value of 315 to remove local program data

2a	Major Sources Missing CMS Source Category Code	Review Indicator	State			1				1	Meets Expectations	Source appears to have new Title 5 permit
3a1	Timely Entry of HPV Determinations	Review Indicator	State			11				11	Meets Expectations	
3a2	Untimely Entry of HPV Determinations	Goal	State	0		1				1	Meets Expectations	11 of 12 (92%) HPVs were timely
3b1	Timely Reporting of Compliance Monitoring Minimum Data Requirements	Goal	State	100%	78.6%	97.3%	1353	1391	38	97.6% (1217/1246)	Meets Expectations	Adjusted from statewide value of 97.3% to remove local program data; half of late entries were in Wilmington RO.
3b2	Timely Reporting of Stack Test Minimum Data Requirements	Goal	State	100%	75.5%	96%	241	251	10	95.4% (189/198)	Meets Expectations	Adjusted from statewide value of 96% to remove local program data
3b3	Timely Reporting of Enforcement Minimum Data Requirements	Goal	State	100%	76.1%	92.9%	157	169	12	95% (152/160)	Meets Expectations	Adjusted from statewide value of 92.9% to remove local program data
5a	FCE Coverage Major	Goal	State	100%	90%	100%	328	328	0	100% (303/303)	Meets Expectations	Adjusted to remove local program data; metric remains 100%
5b	FCE Coverage SM-80	Goal	State	100%	90.6%	99.8%	655	656	1	100% (626/626)	Meets Expectations	Adjusted from statewide value of 99.8% to remove local program data
5c	FCE Coverage Synthetic Minors (non SM-80)	Goal	State	100%	66.7%	100%	1	1	0	NA	NA	NA
5d	FCE Coverage Minors	Goal	State	100%	11.7%	0/0	0	0	0	NA	NA	NA

5c	Review of Title V Annual Compliance Certifications Completed	Goal	State	100%	72.5%	96.1%	299	311	12	95.8% (271/283)	Meets Expectations	Adjusted from statewide value of 96.1% to remove local program data
7b1	Alleged Violations Reported Per Informal Enforcement Actions (Tier I only)	Goal	State	100%	62.2%	89.5%	111	124	13	89.8% (106/118)	State Attention	Supplemental Review; adjusted from statewide value of 89.5% to remove local program data
7b2	Alleged Violations Reported Per Failed Stack Tests	Review Indicator	State		54%	0/0	0	0	0	0/0	Meets Expectations	Production data shows the 3 sources with a failed stack test reflect proper compliance status.
7b3	Alleged Violations Reported Per HPV Identified	Goal	State	100%	69.6%	80%	8	10	2	80% (8/10)	State Improvement	Supplemental Review; both sources in Fayetteville Regional Office.
8a	HPV Discovery Rate Per Major Facility Universe	Review Indicator	State		3.9%	3.1%	10	327	317	3.3% (10/299)	State Attention	Adjusted from statewide value of 3.1% to remove local program data. NC discovery rate slightly below national average; discuss HPV identification process with State.
8b	HPV Reporting Indicator at Majors with Failed Stack Tests	Review Indicator	State		20.5%	0/0	0	0	0	0/0	Meets Expectations	Production data shows both Major sources with failed stack test were designated as HPV.
10a	HPV cases which meet the timeliness goal of the HPV Policy	Review Indicator	State		63.7%	100%	14	14	0	100% (14/14)	Meets Expectations	

Resource Conservation and Recovery Act

Metric	Metric Name	Metric Type	Agency	National Goal	National Average	North Carolina	Count	Universe	Not Counted	Initial Finding	Comments
1a1	Number of operating TSDFs	Data Verification	State			23				Meets SRF Expectations	
1a2	Number of active LQGs	Data Verification	State			471				Meets SRF Expectations	
1a3	Number of active SQGs	Data Verification	State			1872				Meets SRF Expectations	
1a4	All other active sites	Data Verification	State			4883				Meets SRF Expectations	
1a5	Number of BR LQGs	Data Verification	State			530				Meets SRF Expectations	
1b1	Number of sites inspected	Data Verification	State			1018				Meets SRF Expectations	
1b2	Number of inspections	Data Verification	State			1622				Meets SRF Expectations	
1c1	Number of sites with new violations during review year	Data Verification	State			88				Meets SRF Expectations	
1c2	Number of sites in violation at any time during the review year regardless of determination date	Data Verification	State			112				Meets SRF Expectations	

1d1	Number of sites with informal enforcement actions	Data Verification	State			62				Meets SRF Expectations	
1d2	Number of informal enforcement actions	Data Verification	State			65				Meets SRF Expectations	
1e1	Number of sites with new SNC during year	Data Verification	State			15				Meets SRF Expectations	
1e2	Number of sites in SNC regardless of determination date	Data Verification	State			27				Meets SRF Expectations	
1f1	Number of sites with formal enforcement actions	Data Verification	State			38				Meets SRF Expectations	
1f2	Number of formal enforcement actions	Data Verification	State			53				Meets SRF Expectations	
1g	Total dollar amount of final penalties	Data Verification	State			\$227,075				Meets SRF Expectations	
1h	Number of final formal actions with penalty in last 1 FY	Data Verification	State			10				Meets SRF Expectations	
2a	Long-standing secondary violators	Review Indicator	State			5				Area for State Attention	Five secondary violators did not meet RCRA ERP guidelines by RTC by day 240, or reclassified as SNC.

5a	Two-year inspection coverage for operating TSDFs	Goal	State	100%	89.4%	100%	23	23	0	Meets SRF Expectations	
5b	Annual inspection coverage for LQGs	Goal	State	20%	22.6%	51.7%	274	530	256	Meets SRF Expectations	
5c	Five-year inspection coverage for LQGs	Goal	State	100%	62.9%	68.5%	363	530	167	Area for State Improvement	Inspection coverage is significantly below national goal of 100%.
5d	Five-year inspection coverage for active SQGs	Informational Only	State		11%	27.8%	521	1872	1351	Meets SRF Expectations	
5e1	Five-year inspection coverage at other sites (CESQGs)	Informational Only	State			397				Meets SRF Expectations	
5e2	Five-year inspection coverage at other sites (Transporters)	Informational Only	State			53				Meets SRF Expectations	
5e3	Five-year inspection coverage at other sites (Non-notifiers)	Informational Only	State			0				Meets SRF Expectations	
5e4	Five-year inspection coverage at other sites (not covered by metrics 5a-5e3)	Informational Only	State			1273				Meets SRF Expectations	
7b	Violations found during inspections	Review Indicator	State		32.5%	6.2%	62	997	935	Area for State Improvement	Violation identification rate is significantly below national average. This preliminary finding will be evaluated during the file review.

8a	SNC identification rate	Review Indicator	State		2.1%	1.2%	12	997	985	Area for State Attention	SNC identification rate is lower than the national average. This preliminary finding will be evaluated during the file review.
8b	Timeliness of SNC determinations	Goal	State	100%	81.7%	93.3%	14	15	1	Meets SRF Expectations	Only one SNC was entered after 150 days (at day319).
10a	Timely enforcement taken to address SNC	Review Indicator	State	80%	81.8%	88.9%	8	9	1	Meets SRF Expectations	

Appendix B: File Metric Analysis

This section presents file metric values with EPA’s initial observations on program performance. Initial findings are developed by EPA at the conclusion of the file review.

Initial findings are statements of fact about observed performance. They should indicate whether there is a potential issue and the nature of the issue. They are developed after comparing the data metrics to the file metrics and talking to the state.

Final findings are presented above in the CWA Findings section.

Because of limited sample size, statistical comparisons among programs or across states cannot be made.

Clean Water Act

State: NC							Year Reviewed: FY 2011
CWA Metric #	Description	Numerator	Denominator	Metric Value	Goal	Initial Findings	Details
2b	Files reviewed where data are accurately reflected in the national data system: Percentage of files reviewed where data in the file are accurately reflected in the national data systems	16	41	39%	95%	State Improvement	
3a	Timeliness of mandatory data entered in the national data system	NA	NA	NA	100%	NA	
4a1	Pretreatment compliance inspections and audits	61	42	145.2%	100%	Meets Expectations	
4a2	Significant industrial user (SIU) inspections for SIUs discharging to non-authorized POTWs	0	0	NA	100%	NA	

4a3	EPA and state oversight of SIU inspections by approved POTWs	0	0	NA	100%	NA	
4a4	Major CSO inspections	0	0	NA	100%	NA	
4a5	SSO inspections	101	46	219.6%	100%	Meets Expectations	
4a6	Phase I MS4 audits or inspections	1	1	100.0%	100%	Meets Expectations	
4a7	Phase II MS4 audits or inspections	11	10	110.0%	100%	Meets Expectations	
4a8	Industrial stormwater inspections	40	17	235.3%	100%	Meets Expectations	
4a9	Phase I and II stormwater construction inspections	1056	1200	88.0%	100%	State Attention	
4a10	Inspections of large and medium NPDES-permitted CAFOs	17	17	100.0%	100%	Meets Expectations	
4a11	Inspections of non-permitted CAFOs	0	0	NA	100%	NA	
4b	Planned commitments completed: CWA compliance and enforcement commitments other than CMS commitments, including work products/commitments in PPAs, PPGs, grant agreements, MOAs, MOUs or other relevant agreements	6	6	100.0%	100%	Meets Expectations	

6a	Inspection reports reviewed that provide sufficient documentation to determine compliance at the facility	28	31	90.3%	100%	Meets Expectations	
6b	Inspection reports completed within prescribed timeframe: Percentage of inspection reports reviewed that are timely	22	34	64.7%	100%	State Improvement	
7e	Inspection reports reviewed that led to an accurate compliance determination	28	31	90.3%	100%	Meets Expectations	
8b	Single-event violation(s) accurately identified as SNC or non-SNC	5	5	100.0%	100%	Meets Expectations	
8c	Percentage of SEVs Identified as SNC Reported Timely: Percentage of SEVs accurately identified as SNC that were reported timely	0	0	NA	100%	NA	
9a	Percentage of enforcement responses that return or will return source in SNC to compliance	12	19	63.2%	100%	State Improvement	
10b	Enforcement responses reviewed that address violations in a timely manner	2	8	25%	100%	State Improvement	
11a	Penalty calculations that include gravity and economic benefit: Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit	0	26	0.0%	100%	State Improvement	

12a	Documentation on difference between initial and final penalty: Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	22	26	84.6%	100%	State Attention	
12b	Penalties collected: Percentage of penalty files reviewed that document collection of penalty	20	26	80%	100%	State Attention	

Finding Categories

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

Clean Air Act

State: North Carolina					Year Reviewed: FY 2011		
CAA Metric #	CAA File Review Metric Description	Numerator	Denominator	Percentage	Goal	Initial Findings	Details
2b	Accurate MDR data in AFS: Percentage of files reviewed where MDR data are accurately reflected in AFS	28	35	80.0%	100%	State Attention	4 files had inaccurate/missing air program codes or subparts; 1 file had minor discrepancies (gov't ownership); 2 files had inaccuracies related to key actions (NOVACC).
4a1	Planned evaluations completed: Title V Major FCEs	311	311	100.0%	100%	Meets Requirements	
4a2	Planned evaluations completed: SM-80 FCEs	640	640	100.0%	100%	Meets Requirements	
4a3	Planned evaluations completed: Synthetic Minor FCEs	0	0	N/A	100%		
4a4	Planned evaluations completed: Other Minor FCEs	5	0	N/A	100%		
4a5	Planned evaluations completed: Title V Major PCEs	0	0	N/A	100%		
4a6	Planned evaluations completed: SM-80 PCEs	0	0	N/A	100%		
4a7	Planned evaluations completed: Synthetic Minor PCEs	0	0	N/A	100%		
4a8	Planned evaluations completed: Other Minor PCEs	0	0	N/A	100%		
4b	Planned commitments completed: CAA compliance and enforcement commitments other than CMS commitments	12	12	100.0%	100%	Meets Requirements	
6a	Documentation of FCE elements: Percentage of FCEs in the files reviewed that meet the definition of a FCE per the CMS policy	34	35	97.1%	100%	Meets Requirements	

6b	Compliance Monitoring Reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility: Percentage of CMRs or facility files reviewed that provide sufficient documentation to determine facility compliance	34	35	97.1%	100%	Meets Requirements	
7a	Accuracy of compliance determinations: Percentage of CMRs or facility files reviewed that led to accurate compliance determinations	31	35	88.6%	100%	State Attention	3 sources had violations indicated (NOV, HPV), but compliance status was not changed in AFS; another source had insufficient information in inspection report to make an accurate compliance determination.
8c	Accuracy of HPV determinations: Percentage of violations in files reviewed that were accurately determined to be HPVs	12	12	100.0%	100%	Meets Requirements	
9a	Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame: Percentage of formal enforcement responses reviewed that include required corrective actions that will return the facility to compliance in a specified time frame	13	13	100.0%	100%	Meets Requirements	
10a	Timely action taken to address HPVs: Percentage of HPV addressing actions that meet the timeliness standard in the HPV Policy	13	13	100.0%	100%	Meets Requirements	
10b	Appropriate Enforcement Responses for HPVs: Percentage of enforcement responses for HPVs that appropriately address the violations	12	13	92.3%	100%	Meets Requirements	
11a	Penalty calculations reviewed that consider and include gravity and economic benefit: Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit	1	13	7.7%	100%	State Improvement	All but one penalty action reviewed did not document the rationale for a "zero" economic benefit, and there was no evidence that the BEN model or similar was used where EB was shown.

12a	Documentation on difference between initial and final penalty and rationale: Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	13	13	100.0%	100%	Meets Requirements
12b	Penalties collected: Percentage of penalty files reviewed that document collection of penalty	13	13	100.0%	100%	Meets Requirements

Finding Category Descriptions

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

Resource Conservation and Recovery Act

State: North Carolina

Year Reviewed: FY 2011

RCRA Metric #	Name and Description	Numerator	Denominator	Metric %	Goal	Initial Findings	Details
2b	Accurate entry of mandatory data: Percentage of files reviewed where mandatory data are accurately reflected in the national data system	37	40	92.5%	100%	Meets Requirements	
3a	Timely entry of mandatory data: Percentage of files reviewed where mandatory data are entered in the national data system in a timely manner	0	0	N/A	100%		Cannot make a finding, no method to determine timeliness data entry in file review.
4a	Planned non-inspection commitments completed: Percentage of non-inspection commitments completed in the review year	2	2	100.0%	100%	Meets Requirements	
6a	Inspection reports complete and sufficient to determine compliance: Percentage of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance	32	34	94.1%	N/A	Meets Requirements	
6b	Timeliness of inspection report completion: Percentage of inspection reports reviewed that are completed in a timely manner	33	33	100.0%	100%	Meets Requirements	
7a	Accurate compliance determinations: Percentage of inspection reports reviewed that led to accurate compliance determinations	39	40	97.5%	100%	Meets Requirements	

8c	Appropriate SNC determinations: Percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review year	15	16	93.8%	100%	Meets Requirements
9a	Enforcement that returns SNC sites to compliance: Percentage of enforcement responses that have returned or will return a site in SNC to compliance	15	15	100.0%	100%	Meets Requirements
9b	Enforcement that returns SV sites to compliance: Percentage of enforcement responses that have returned or will return a secondary violator to compliance	16	16	100.0%	100%	Meets Requirements
10b	Appropriate enforcement taken to address violations: Percentage of files with enforcement responses that are appropriate to the violations	30	31	96.8%	100%	Meets Requirements
11a	Penalty calculations include gravity and economic benefit: Percentage of reviewed penalty calculations that consider and include, where appropriate, gravity and economic benefit	0	11	0.0%	100%	Area for Improvement
12a	Documentation on difference between initial and final penalty: Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference	16	17	94.1%	100%	Meets Requirements
12b	Penalties collected: Percentage of files that document collection of penalty	17	17	100.0%	100%	Meets Requirements
Finding Categories						

<p>Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, and are innovative and noteworthy, and can serve as models for other states.</p>
<p>Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.</p>
<p>Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.</p>
<p>Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.</p>

Appendix C: File Selection

Files are selected according to a standard protocol using a web-based file selection tool. These are designed to provide consistency and transparency to the process. Based on the description of the file selection process below, states should be able to recreate the results in the table.

Clean Water Act

File Selection Process

Using the OTIS File Selection Tool, 41 Representative Files were selected for review as part of Round 3 of the North Carolina State Review Framework (SRF) review to be conducted from January 7 - 11, 2013. As specified in the SRF File Selection Protocol, between 35 and 40 files are to be selected for a state with a universe greater than 1,000 facilities. Since North Carolina's universe is greater than 1,000; 41 files were selected for the SRF review. The Permit Quality Review (PQR)/SRF Integrated File Selection Process calls for additional files to be selected and reviewed as part of the integrated review. Common files that will be reviewed by permits and enforcement staff include files selected for the PQR core review and all files randomly selected from the Regional Special Focus Areas.

There are 220 major individual permits, 1,024 non-major individual permits and 4,902 non-major general permits in the North Carolina universe of facilities. Of the 41 files to review: 58.5 percent (or 24) of the files selected are majors, and 41.5 percent (or 17) of the files are non-majors.

For the major facilities, the North Carolina universe was sorted based on Inspections, Significant Noncompliance (SNC), Single Event Violations (SEV), Violations, Informal/Formal Actions and Penalties. Twenty-four major facilities were then randomly selected for a file review.

For non-major facilities, the North Carolina universe was also sorted based on Inspections, SNC, SEVs, Violations, Informal/Formal Actions and Penalties. Seventeen non-major facilities were then randomly selected for a file review.

Using the sorting criteria noted above, the 41 facilities selected for the SRF file review include facilities with a total of 56 inspections, 8 SEVs, 26 informal actions (ranging from 1-6 informal actions per facility for a total of 64 informal actions), 26 formal actions (ranging from 1-9 formal actions per facility for a total of 63 formal actions), and 26 penalties (ranging from \$149 to \$12,626).

Of the 41 files selected for the SRF review, 13 of the files were those selected for the integrated PQR/SRF review as follows: 9 are Core Permits (4 Industrial Permits and 5 Nutrients); and 4 are Special Focus Area Permits (Whole Effluent Toxicity). The remaining files are for SRF purposes, however, several files selected for the SRF review do include other Region 4 Special Focus Areas (Turbidity and Chlorophyll a).

File Selection Table

	NPDES ID	City	Zip	Permit	Inspection	Violation	SEV	SNC	Informal Enforcement	Formal Enforcement	Penalty	Universe	Selection
1	NC0000078	BREVARD TOWN	28712		1	Yes	0	No	1	1	\$551	Major	R
2	NC0001112	WILMINGTON	28402		3	Yes	0	No	0	0	\$0	Major	R
3	NC0001881	BRIDGETON	28519		0	Yes	0	No	1	1	\$284	Major	R
4	NC0003298	RIEGELWOOD	28456		2	Yes	0	SNC	0	0	\$0	Major	R
5	NC0003760	KINSTON	28502		1	Yes	0	SNC	0	2	\$1,836	Major	R
6	NC0004243	MARION	28752		3	Yes	0	SNC	4	3	\$4,151	Major	R
7	NC0004308	BADIN	28009		1	Yes	0	SNC	0	2	\$472	Major	R
8	NC0004812	MCADENVILLE	28101		3	Yes	0	SNC	4	5	\$5,802	Major	R
9	NC0005126	HARMONY	28634		1	Yes	0	Category I	0	6	\$7,386	Non-Major	R
10	NC0006190	MAIDEN	28650		3	Yes	0	No	0	1	\$1,335	Major	R
11	NC0006254	PATTERSON	28661		2	Yes	0	Category I	0	2	\$2,384	Non-Major	R
12	NC0007536	STANTONSBURG	27883		1	Yes	0	Category I	1	0	\$0	Non-Major	R
13	NC0020290	BURNSVILLE	28714		1	Yes	0	Category I	4	1	\$186	Non-Major	R
14	NC0020435	PINETOPS	27864		0	Yes	0	Category I	3	1	\$154	Non-Major	R

15	NC0020664	SPINDALE	28160		1	Yes	1	SNC	5	0	\$0	Major	R
16	NC0020800	ANDREWS	28901		2	Yes	1	No	1	0	\$0	Major	R
17	NC0020940	MURPHY	28906		3	Yes	0	SNC	0	4	\$6,514	Major	R
18	NC0020966	GASTONIA	28052		0	Yes	0	Category 1	6	1	\$687	Non- Major	R
19	NC0021369	COLUMBUS	28722		1	Yes	0	Category 1	2	0	\$0	Non- Major	R
20	NC0021423	SPRUCE PINE	28777		1	No	0	No	2	0	\$0	Major	R
21	NC0021717	WILKESBORO	28697		3	No	0	No	0	0	\$0	Major	R
22	NC0021865	CHADBOURN	28431		1	Yes	1	No	1	0	\$0	Major	R
23	NC0023736	LENOIR	28645		0	Yes	0	No	2	3	\$2,951	Major	R
24	NC0023876	BURLINGTON	27215		3	Yes	0	No	1	0	\$0	Major	R
25	NC0025011	ELIZABETH CITY	27909		1	Yes	0	SNC	1	2	\$3,568	Major	R
26	NC0025054	OXFORD	27565		0	Yes	0	No	2	0	\$0	Major	R
27	NC0025381	LAKE LURE	28746		1	Yes	1	Category 1	4	4	\$5,768	Non- Major	R
28	NC0025691	LITTLETON	27850		2	Yes	0	Category 1	0	1	\$302	Non- Major	R
29	NC0026921	PARKTON	28371		1	Yes	0	Category 1	4	1	\$3,069	Non- Major	R
30	NC0030813	JACKSONVILLE	28540		1	Yes	1	Category 1	3	0	\$0	Non- Major	R
31	NC0032077	GRIFTON	28530		2	Yes	1	No	0	2	\$3,943	Major	R
32	NC0036196	NEWTON	28658		1	Yes	0	No	0	1	\$585	Major	R
33	NC0036269	CONCORD	28025		0	No	0	No	1	0	\$0	Major	R
34	NC0040266	KNIGHTDALE	27545		1	Yes	1	Category 1	0	1	\$909	Non- Major	R
35	NC0044024	ALBEMARLE	28001		1	Yes	1	Category 1	1	3	\$2,761	Non- Major	R

36	NC0056561	MAGGIE VALLEY	28751		3	No	0	No	0	0	\$0	Major	R
37	NC0059099	DURHAM	27703		1	Yes	0	Category 1	5	3	\$578	Non-Major	R
38	NC0059218	LEXINGTON	27292		2	Yes	0	Category 1	1	9	\$12,626	Non-Major	R
39	NC0078344	TAR HEEL	28392		1	Yes	0	No	4	0	\$0	Major	R
40	NC0086070	EDNEYVILLE	28727		1	Yes	0	Category 1	0	2	\$784	Non-Major	R
41	NC0087947	RIEGELWOOD	28456		0	Yes	0	Category 1	1	1	\$149	Non-Major	R

Clean Air Act

File Selection Process

Using the OTIS File Selection Tool, 35 files were selected for review during the November 2012 file review visit. As specified in the File Selection Protocol, since the North Carolina universe includes 970 sources, 30 to 35 files must be reviewed.

Representative Files

The file review will focus on sources with compliance and enforcement activities occurring during the review period (FY11). Therefore, the targeted number of files to review was determined to be approximately 35 files. Since some supplemental files will need to be selected, the initial breakdown for representative files will be about 15 files each for both enforcement and compliance monitoring, leaving the remaining 5 files available for supplemental review.

Enforcement files: In order to identify files with enforcement related activity, the facility list was sorted to identify those facilities which had formal and/or informal enforcement actions during the review period (FY11). There were 14 sources with a formal enforcement action in FY11, so all of these were selected for review.

Compliance files: There were 944 remaining sources with full compliance evaluations (FCEs) during FY11. This list was sorted by district (using the LCON code) to ensure equal representation among districts, and every 63rd file was selected in order to identify 15 files.

Supplemental Files

Metric 7b1: The Data Metrics Analysis (DMA) indicated 12 sources had been issued a notice of violation (NOV) in FY11, but the compliance status code for that source had not been changed to reflect the violation. Three of these sources (all from the Fayetteville regional office) had already been identified as representative files (3701700043, 3715500166, and 3716500048), so one additional source from the Wilmington regional office was selected for supplemental review (3712900343).

Metric 7b3: The DMA identified 2 sources that were designated as having a high priority violation (HPV), but the compliance status code was not changed to reflect the violation. Both of these sources had already been selected as representative files.

District Distribution: North Carolina has 7 regional offices. Based on the representative and supplemental file selections described above, the distribution of files was fairly even for four of the regional offices, but the Fayetteville, Washington and Wilmington regional offices were

under-represented. Therefore, five additional supplemental files (3712300061, 3706100123, 3701900013, 3712900013, and 3704900194) were selected from these three areas in order to achieve an even distribution of files from each regional office, as shown in the table below.

LCON	Regional Office	Representative	Supplemental	Total
01	Asheville	5	0	5
03	Mooreville	5	0	5
04	Winston Salem	5	0	5
05	Raleigh	5	0	5
06	Fayetteville	4	1	5
07	Washington	4	1	5
08	Wilmington	1	4	5
Total		29	6	35

File Selection Table

	ID Number	City	ZIP CODE	LCON	Universe	PCEs	Stack Tests Failed	Violations	HPVs	Informal Actions	Formal Actions	Penalties	Flag Value
1	3711100164	MARION NORTH COVE	28752	01	Major	1	0	1	1	2	2	9455	representative
2	3708700020	WAYNESVILLE	28786	01	Synthetic Minor	1	0	0	0	0	0	0	representative
3	3702700101	LENOIR	28645	01	Major	1	0	1	2	4	1	1172	representative
4	3717300067	BRYSON CITY	28713	01	Synthetic Minor	1	0	1	0	2	0	0	representative
5	3712100016	SPRUCE PINE	28777	01	Synthetic Minor	1	0	1	1	2	1	0	representative
6	3715900054	SALISBURY	28146	03	Synthetic Minor	1	0	0	0	0	0	0	representative
7	3703500011	NEWTON	28636	03	Synthetic Minor	1	0	0	0	0	0	0	representative
8	3717900189	MONROE	28110	03	Synthetic Minor	1	0	1	0	0	1	139583	representative
9	3716700013	NORWOOD	28128	03	Major	1	0	1	0	0	1	2186	representative
10	3702500155	CONCORD	28027	03	Major	1	0	0	0	0	0	0	representative
11	3705700222	THOMASVILLE	27360	04	Major	1	0	1	0	0	1	1474	representative

12	3705700116	THOMASVILLE	27360	04	Major	1	0	0	0	0	0	0	representative
13	3719300001	NORTH WILKESBORO	28659	04	Major	1	0	1	0	0	1	12570	representative
14	3708100035	HIGH POINT	27260	04	Synthetic Minor	1	0	0	0	0	0	0	representative
15	3715100276	ASHEBORO	27203	04	Synthetic Minor	1	0	0	0	0	0	0	representative
16	3707700040	OXFORD	27565	05	Major	1	0	0	0	0	0	0	representative
17	3706300144	DURHAM	27710	05	Major	1	0	1	1	2	1	8321	representative
18	3706500033	TARBORO	27886	05	Synthetic Minor	1	0	0	0	0	0	0	representative
19	3718100092	HENDERSON	27537	05	Synthetic Minor	1	0	0	0	0	0	0	representative
20	3703700015	MONCURE	27559	05	Major	1	0	1	1	3	1	42571	representative
21	3701700043	ELIZABETHTOWN	28337	06	Major	1	0	0	1	2	1	2171	representative
22	3715500166	LUMBERTON	28358	06	Major	1	0	0	1	2	1	2171	representative
23	3712500059	CARTHAGE	28327	06	Synthetic Minor	1	0	0	0	0	0	0	representative
24	3712300061	MT GILEAD	27306	06	Major	1	0	1	1	2	0	0	supplemental
25	3716500048	WAGRAM	28396	06	Synthetic Minor	1	0	0	0	1	0	0	representative
26	3714700021	GREENVILLE	27835	07	Major	1	0	1	0	1	1	2291	representative
27	3714700104	GREENVILLE	27834	07	Major	1	0	0	0	0	0	0	representative
28	3701300071	AURORA	27806	07	Major	1	0	1	1	2	1	8135	representative
29	3704900194	NEW BERN	28562	07	Synthetic Minor	1	0	0	0	0	0	0	supplemental
30	3704900104	VANCEBORO	28586	07	Major	1	0	1	1	2	1	3059	representative
31	3706100123	MT OLIVE	28365	08	Tier I Minor	1	0	0	0	0	0	0	supplemental
32	3701900013	LELAND	28451	08	Major	1	0	0	0	0	0	0	supplemental
33	3712900343	WILMINGTON	28401	08	Major	1	0	0	0	1	0	0	supplemental
34	3712900013	WILMINGTON	28412	08	Tier I Minor	1	0	0	0	0	0	0	supplemental
35	3704700125	RIEGELWOOD	28456	08	Major	1	0	0	0	0	0	0	representative

Resource Conservation and Recovery Act

File Selection Process

Using the OTIS File Selection Tool, 40 files were selected for review during the November 2012 file review visit. As outlined in the SRF File Selection Protocol, between 35 and 40 files must be reviewed for states with more than 1000 compliance and enforcement activities during the review period. The North Carolina Department of Environment & Natural Resources (DENR) had 1,038 RCRA activities during FY2011, and a total of 40 files were selected for review. The general process used to identify the files to be reviewed follows:

A random, representative selection of facilities was completed using the OTIS File Selection Tool. As outlined in the SRF File Selection Protocol, at least half of the facilities selected should have compliance monitoring activity, and if possible, half should have enforcement activity. There are seven Regional Offices of DENR which perform the Department's duties on a local level. Since the Regional Office locator information was not available through the SRF File Selection tool, files could not be selected to include representative files from each regional office.

Enforcement files: In order to identify files with enforcement related activity, the North Carolina RCRA FY2011 facility list was sorted to identify those facilities which had a formal enforcement action during the review period. There were 40 facilities with a formal enforcement action in FY2011 in North Carolina. A total of 20 “representative” formal enforcement files were randomly selected to include a mix of RCRA facility types (TSD, LQG, SQG, etc.).

Compliance Monitoring files: For the remaining 20 files, the OTIS File Selection Tool was then sorted on the “Informal Action” column and ten facilities that received informal enforcement action were selected. The remaining ten files were then selected from facilities that had inspections during FY2011, but did not have any informal or formal enforcement action during that period. In both instances, a mix of RCRA facility types was included in the selection.

There were no supplemental files selected as part of the file review

File Selection Table

	Facility Name	Program ID	City	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe
1	MAACO OF WILMINGTON	NCR000002428	WILMINGTON	1	2	0	0	4	33,918	CES
2	EVO CORP	NCD982114803	WINSTON SALEM	2	6	1	0	3	8,291	TRA
3	PRINTCOM INC	NCR000149484	RALEIGH	2	3	1	0	3	3,900	CES
4	UNITED METAL FINISHING INC	NCD986177129	GREENSBORO	1	5	0	0	3	12,410	SQG
5	BASF CORP FIBERS DIVISION ENKA	NCD052813250	ENKA	1	0	0	0	2	0	OTH
6	CATS-BOD S TRYON BUS GARAGE	NC0991302662	CHARLOTTE	2	1	0	1	2	440	CES
7	AIRBORN COATINGS	NCD981859358	MOUNT HOLLY	1	2	0	0	1	5,000	OTH
8	BAYER CROPSCIENCE	NCD980600274	DURHAM	1	1	0	1	1	38	SQG
9	BIOTECH INDUSTRIES	NC0991302670	NEWTON	2	1	0	1	1	500	OTH
10	BRISCO INC	NCD986175750	SWANNANOVA	2	6	1	0	1	0	CES
11	COUNTY MOTOR COMPANY INC	NCD982173387	GRAHAM	0	1	0	1	1	38	SQG
12	DAIMLER TRUCKS	NCD018652339	CLEVELAND	2	0	0	0	1	5,324	TSD(LDF)
13	DEL-TON INC	NCR000150433	ELIZABETHTOWN	3	2	1	0	1	0	SQG
14	ION BOND	NCR000013094	GREENSBORO	0	2	0	1	1	453	SQG

15	NUWAY SPEAKER PRODUCTS	NCD986182442	CLINTON	0	0	0	0	1	96,500	OTH
16	PM ELECTROPLATING	NCD003468600	HIGH POINT	1	2	1	0	1	0	OTH
17	POWDER COATING SERVICES INC	NCR000150342	GASTONIA	2	6	1	0	1	0	SQG
18	PRECISION ALLOYS	NCR000135418	RALEIGH	2	1	0	2	1	540	LQG
19	STRANDBERG ENGINEERING LABS	NCD982128977	GREENSBORO	0	1	0	1	1	29	CES
20	TWIN STATE BATTERY & CHARGER SERVICE	NCS000000516	NEWTON	1	2	1	0	1	0	CES
21	WARLICK PAINT COMPANY, INC	NCD003236841	STATESVILLE	1	3	0	0	1	1,650	LQG
22	MAX DAETWYLER CORP	NCD986189033	HUNTERSVILLE	2	1	0	1	0	0	CES
23	NEW HANOVER REGIONAL MEDICAL CENTER	NCD982141335	WILMINGTON	2	4	0	1	0	0	LQG
24	IBC SPECIALISTS	NCR000146977	GASTONIA	2	2	0	1	0	0	LQG
25	BAKER FURNITURE CO.	NCD059141184	CONNELLY SPRINGS	2	1	0	1	0	0	LQG
26	HAIRFIELD VAULT COMPANY	NCS000001688	NEWTON	2	1	0	1	0	0	OTH
27	CAPE FEAR COMMUNITY COLLEGE	NC0000202556	WILMINGTON	2	7	0	1	0	0	SQG
28	SPONGEX, LLC	NCR000005926	TARBORO	2	2	0	1	0	0	SQG
29	PHOTO CHEMICAL SYSTEMS INC	NCD000831065	KNIGHTDALE	2	1	0	1	0	0	SQG

30	GENERAL TIMBER, INC	NCD057034449	SANFORD	2	3	0	1	0	0	TSD(LDF)
31	CLARIANT CORPORATION - MOUNT HOLLY WEST	NCD085074821	MOUNT HOLLY	2	1	0	1	0	0	TSD(TSF)
32	AMERICAN TRUCK CENTER INC	NCD986188464	WINTERVILLE	1	0	0	0	0	0	CES
33	GATES RUBBER CO - ASHE COUNTY	NCD152479606	JEFFERSON	1	0	0	0	0	0	CES
34	JESSUP AUTO SALES INC	NCS000001810	ELEZABETH CITY	1	0	0	0	0	0	CES
35	GIBRALTAR PACKAGING GROUP, INC	NCD981932031	MOUNT GILEAD	1	0	0	0	0	0	LQG
36	STANLEY FURNITURE COMPANY, INC.	NCD024770125	ROBBINSVILLE	1	0	0	0	0	0	LQG
37	MALLINCKRODT LLC	NCD042091975	RALEIGH	1	0	0	0	0	0	TSD(COM)
38	NEXEO SOLUTIONS, LLC	NCD061263315	CHARLOTTE	48	0	0	0	0	0	TSD(LDF)
39	TARTS RECYCLING	NCS000001440	DUNN	5	6	1	0	0	0	OTH
40	ENTHALPY ANALYTICAL	NCR000148403	DURHAM	1	6	0	0	0	0	OTH

Appendix D: Status of Past SRF Recommendations

During the Round 1 and 2 SRF reviews of Select a state's compliance and enforcement programs, Select office recommended actions to address issues found during the review. The following table contains all outstanding recommendations for Round 1, and all completed and outstanding actions for Round 2. The statuses in this table are current as of Select date.

For a complete and up-to-date list of recommendations from Rounds 1 and 2, visit the [SRF website](#).

Round	Status	Due Date	Media	Plant #	Element Name	Finding	Action	Completion Verification
2	Completed	3/31/2012	CAA	E2	Data Accuracy	The majority of data reported into the national system appears to be accurately entered and maintained. However, stack test results are not always accurately entered and maintained in AFS.	By July 31, 2011, DAQ should revise their procedures for stack test data management to ensure that Pass/Fail/Pending codes (PP/FF/99) for all stack tests are reported in the AFS results code field, and pending codes are updated within 120 days of the stack test date. A draft of these revised procedures should be submitted to EPA (AEEB) for review by June 30, 2011. In addition, by June 30, 2011, DAQ, in consultation with Region 4's AEEB, should correct in AFS the missing results codes for FY2008 and FY2009 and the other inaccurate data identified during the review. Region 4's AEEB will monitor the required data corrections.	Plan submitted 7/13/11 by DAQ advising that coding changes would be needed to data system (IBEAM) to address recommendation. DAQ also indicated that proposed changes could not be implemented until EPA's Information Collection Request (ICR) had been finalized (i.e. approved by OMB). The ICR update included a change to the required time frame for entry of stack test dates and results, requiring delegated agencies to enter both the stack test date and the result within 120 days of the test. With the ICR approval in January 2012, DAQ advised EPA on 6/5/12 that the necessary changes had been made to their data system. A review of the FY12 "to date" data indicates that stack tests are now being properly uploaded into AFS with an appropriate results code. Also, Metric 3b2 indicates that 96.8% (179/185) of these stack tests were reported into AFS within 120 days.

2	Completed	6/15/2011	CWA	E2	Data Accuracy	Generally, data reported into PCS is accurately entered and maintained, but data is not accurately entered for violations and NOVs of Whole Effluent Toxicity (WET) requirements.	Within three months of the date of the Final SRF Report, North Carolina should properly code into PCS all WET limits and specifically include toxicity limits. Immediately, North Carolina should ensure that any new facilities that require WET limits are properly coded into PCS. Immediately, North Carolina should begin entering all WET data into PCS, including but not limited to any additional tests that are conducted following a failure. Region 4's Clean Water Enforcement Branch (CWEB) will continue to monitor the required level of WET data entry into PCS and discuss results with North Carolina during routine quarterly Watch List meetings. EPA's WET Coordinator will determine when this action is completed. North Carolina should utilize the current standard operating procedures, or update as necessary, to ensure accurate entry of all required data into PCS.	The State has entered the WET permit limits into PCS and the WET violations have shown up in the PCS enforcement report. R4 CWEB continues to monitor through periodic meetings.
2	Completed	9/30/2011	CWA	E4	Completion of Commitments	North Carolina met most compliance and enforcement commitments in their FY2008 CWA §106 Grant Workplan. However, three planned inspection grant commitments were not met.	North Carolina should promptly take actions to fulfill the commitments in the CWA §106 Grant Workplan including the completion of all inspection commitments. Beginning in FY 2011, North Carolina should meet all §106 workplan commitments by September 30 of the fiscal year. EPA Region 4 Clean Water Enforcement Branch will continue to monitor progress of this recommendation through the annual CWA §106 grant review process.	R4 CWEB confirms that 106 workplan commitments are being met.

2	Completed	7/15/2011	CWA	E6	Quality of Inspection of Compliance Evaluation Reports	North Carolina's inspection reports were determined to be complete. However, in a few instances, the reports lacked the necessary documentation so proper compliance determinations could be drawn. The review identified issues with the timeliness of completing inspection reports.	Within four months of the date of the Final SRF Report, North Carolina should develop and implement a final action plan to ensure timely completion of inspection reports. North Carolina should submit to EPA for review the draft action plan and implementation strategy.	The State submitted its Implementation strategy for timely completing inspection reports to Region 4 on 8/2/11. R4's CWEB continues to monitor implementation of the State's Strategy through periodic meetings.
2	Working	3/31/2013	CWA	E9	Enforcement Actions Promote Return to Compliance	North Carolina's enforcement actions generally do not include complying or corrective action that will return facilities to compliance in a specified time frame.	North Carolina should immediately utilize formal enforcement actions to address SNCs and other violations, as appropriate. These actions should include injunctive relief, compliance schedules, and other conditions of formal enforcement that are incorporated into administrative consent or unilateral orders. Region CWEB will monitor and take necessary action, as appropriate, to ensure formal enforcement actions are used to address SNCs and other violations. Quarterly, EPA and North Carolina will discuss enforcement activity during Watch List meetings. EPA will determine when North Carolina has sufficiently met this SRF requirement.	

2	Completed	7/15/2011	CWA	E10	Timely and Appropriate Action	North Carolina does not take appropriate enforcement action for their SNCs and generally does not take timely enforcement action for SNCs in accordance with the NPDES Enforcement Management System (EMS).	Within four months of the date of the Final SRF Report, North Carolina, in consultation with EPA Region 4 Clean Water Act Enforcement Branch, should:(1) Modify the EMS to reflect the need to address SNCs through formal enforcement.(2) Ensure that appropriate and timely enforcement is used to address SNCs in accordance with the NPDES EMS.EPA Region 4 Clean Water Enforcement Branch will evaluate the number of formal enforcement responses executed and timeliness of SNCs through the quarterly CWA Watch List review process and will discuss with the State the causes and recommended solutions to improve SNC timely and appropriate enforcement response during the Quarterly Watch List Meeting.	The State submitted its revised EMS on 8/3/11. R4 CWEB continues to monitor appropriate and timely enforcement to address SNCs through periodic meetings.
2	Working	3/31/2013	CWA	E11	Penalty Calculation Method	North Carolina does not document the gravity and economic benefit components consistent with EPA's penalty policy.	Within four months of the date of the final report, North Carolina should develop and implement final procedures for the documentation of gravity and economic benefit calculations, appropriately using the BEN model or other equivalent method that produces results consistent with EPA national policy. North Carolina should submit draft procedures to EPA for review before finalization.	

2	Completed	3/31/2013	RCRA	E2	Data Accuracy	Reporting and maintaining accurate data in RCRAInfo is a concern in North Carolina. Relevant information was either missing from the file or inaccurately reported in RCRAInfo.	Within three months after the final issuance of the NC SRF Report, North Carolina should implement procedures for entering SNN evaluation codes in RCRAInfo. The EPA RCRA & OPA Enforcement & Compliance Branch (ROECB) is available to assist the state in the development of these procedures.	For SRF Round 2 recommendation for improvement, EPA R4 reviewed the procedures implemented by the DENR to ensure proper coding in SNN data into RCRAInfo. All data is now being entered correctly into RCRAInfo, and the recommendation is considered complete as of Nov. 30, 2012
2	Long Term Resolution	9/30/2013	RCRA	E11	Penalty Calculation Method	North Carolina includes gravity-based penalty calculations in its initial penalty calculations, but its files do not document that economic benefit has been calculated or considered.	Six months after the issuance of the final SRF Report, North Carolina should submit the penalty worksheets and supporting economic benefit calculations for all formal enforcement actions taken during that six-month period. The civil penalty calculation methods should include economic benefit calculations using the BEN model or a state method that is equivalent to and consistent with national policy. Progress towards completion will be formally measured and additional actions taken as necessary based on the evaluation.	

Appendix E: Program Overview

The information contained in this section, including agency structure, resources, data reporting systems, and accomplishments and priorities was provided by North Carolina DENR and was not verified by EPA for SRF report.

Agency Structure

The North Carolina Department of Environment and Natural Resources (DENR) is the lead stewardship agency for the preservation and protection of North Carolina's natural resources. The organization, which has offices in Raleigh, Asheville, Fayetteville, Mooresville, Washington, Wilmington and Winston-Salem, administers regulatory programs designed to protect air quality, water quality, and the public's health. DENR also offers technical assistance to help businesses, farmers, local governments, and the public understand and comply with regulatory requirements. DENR encourages responsible behavior with respect to the environment through education programs provided at DENR facilities and through the state's school system. Through its natural resource divisions, DENR works to protect fish, wildlife and wilderness areas. The agency's activities range from ensuring the safety of drinking water to managing state parks and forests for safe and enjoyable outdoor recreation experiences.

The department is organized into the Secretary's office and staff, administration, divisions, programs, regional offices, boards, councils and commissions.

North Carolina DENR is the lead stewardship agency for the preservation and protection of the state's natural resources. Some administrative and management staff report to the Assistant Secretary for Administration. Natural resource programs report to the Assistant Secretary for Natural Resources. Environmental regulatory programs report to the Assistant Secretary for the Environment. Environmental regulatory programs are administered through seven of the department's divisions and offices.

Administration

Secretary's Office: The Secretary's Office leads and manages the department in its implementation of state and federal environmental laws and management of the state's natural resources. The Secretary's Office coordinates department activities with those of other state and federal agencies. Staff in the Secretary's Office also provides the primary contact with state legislators and other elected officials in the development of environmental and natural resource policies.

Division of Environmental Assistance and Outreach: The Division of Environmental Assistance and Outreach provides non-regulatory technical assistance to help business, industry, local governments and individual citizens understand and meet federal and state permits and regulations, reduce their environmental impacts, increase the recovery of recyclable materials, and practice environmental leadership.

Division of Budget, Planning and Analysis: This division is responsible for the oversight of the development, monitoring and maintenance of the department's budget.

Office of the Controller: The Office of the Controller is the organization responsible for providing a variety of accounting and financial services for the department.

Office of Environmental Education and Public Affairs: The Office of Environmental Education and Public Affairs communicates information about the department's activities to media and the public. The office responds to media inquiries, coordinates responses to public records requests and provides outreach on issues of public concern. The office also encourages, supports and promotes environmental education programs in North Carolina by developing educational materials and curricula.

Division of Human Resources: The Division of Human Resources is responsible for providing human resources services to support and enhance employees, managers and applicants.

Division of Information Technology Services: This division serves as DENR's central point of contact for information technology coordination, guidance, integration and planning.

Division of Purchase and Services: The Division of Purchase and Services is the business manager for DENR and oversees commodity and service procurement, building construction, acquisition of real property and risk management.

Division of Administration (Regional Offices): DENR has seven regional offices located in Asheville, Fayetteville, Mooresville, Raleigh, Washington, Wilmington and Winston-Salem. The regional offices provide administrative and technical staff to support DENR's various division field personnel located in the regional offices.

Environmental Protection Divisions

Division of Water Resources: The Division of Water Resources is responsible for state water supply planning, drought monitoring and response, funding of water resource projects and approval of interbasin transfers. The Division maintains a network of groundwater monitors and has undertaken an effort to develop water supply models for each of the state's river basins. The division's Public Water Supply Section implements the requirements of the federal Safe Drinking Water Act in the state, providing technical assistance and permitting public water systems.

Division of Energy, Mineral and Land Resources: The Division of Energy, Mineral and Land Resources promotes the wise use and protection of North Carolina's land and geologic resources. Within the division, Land Quality Section programs regulate and provide technical assistance related to mining, dam safety and sedimentation control, and exploration and development of energy; the North Carolina Geological Survey performs scientific investigations, provides technical assistance and maps the state's geological resources; and the division as a whole supports public education in the earth sciences. Under 2012 legislation, the division provides staff to the new North Carolina Mining and Energy Commission, which is engaged in developing regulatory standards for onshore oil and gas exploration and development.

Division of Coastal Management: The Division of Coastal Management implements a

permitting program for development in environmentally sensitive areas within the 20 coastal counties. The Division works closely with local governments to strengthen the use of land use planning as a tool for protecting coastal resources and encouraging economic development. The Division also funds beach and waterfront access projects and manages the state's coastal reserves. The system of coastal reserves includes several National Estuarine Research Reserve sites.

Division of Water Quality (DWQ): The DWQ issues permits, monitors permit compliance, evaluates water quality and is the state's enforcement agency for violations of water and groundwater quality regulations. The Division also assists publicly-owned and municipal wastewater and water treatment plants through technical aid and financing. DWQ is comprised of a central office in Raleigh and seven regional offices, each with a regional supervisor for surface water that directly reports to the Surface Water Section Chief. The seven regional offices perform the vast majority of the compliance inspections, respond to complaints and environmental emergencies such as spills, perform ambient monitoring, and generate most of the enforcement actions including civil penalty cases. The central office issues permits to major and minor facilities and general permits, and processes more complex enforcement actions. The central office is made up of six sections: Planning, Laboratory, Surface Water, Aquifer Protection and Environmental Sciences and Infrastructure Financing. The Surface Water Section Chief supervises both Point Source and Wetlands & Storm water Branches. The Wetlands and Storm water Branch contains units which administer the NPDES Storm water permitting and compliance programs. The Points Source Branch contains units which administer permitting and compliance activities for the NPDES wastewater program.

Division of Air Quality (DAQ): The DAQ regulates air quality through technical assistance to industries and enforcement of state and federal air pollution standards. The Division issues permits, implements federal ambient air quality standards, monitors the air quality of the state and oversees a vehicle inspection/maintenance program. The DAQ is comprised of a central office and seven regional offices, each with a regional supervisor that directly reports to the Deputy Director. The seven regional offices perform the bulk of the compliance inspections at all facility classes, permit minor & synthetic minor facilities, respond to complaints and perform ambient monitoring. The central office issues permits to major facilities, finalizes enforcement actions and manages four distinct sections: Technical Services, Permitting, Planning and Ambient Monitoring.

Division of Waste Management (DWM): The mission of the DWM is to prevent harmful releases of waste to the environment and clean up existing contamination. The DWM utilizes a philosophy of waste prevention, aggressive completion of cleanups, creative solutions to continued use, reuse, and redevelopment of contaminated properties throughout all permitting and remediation programs. The Division is headed by a Division Director and Deputy Director. DWM's programs are implemented by four sections: Hazardous Waste (RCRA), Solid Waste, Superfund, and Underground Storage Tanks. An additional staff office implements the state's Brownfields Program. The Hazardous Waste Section (HWS) is headquartered in Raleigh. Compliance and Enforcement staff members are located throughout the state in home-based offices and thus there are no Hazardous Waste Section staff members located in formal regional offices or districts involved in implementation of the RCRA compliance and enforcement

program. Like staff in the regional offices, the staff members working out of home-based offices are located closer to the communities they serve. Home-based staff members work in areas where a regional office is not located.

Natural Resources Divisions

Aquariums: The state's three aquariums, located near Manteo, Atlantic Beach and Wilmington, promote awareness, understanding and appreciation of North Carolina's aquatic resources.

Division of Marine Fisheries: The Division of Marine Fisheries is dedicated to ensuring sustainable marine and estuarine fisheries and habitats for the benefit and health of the people of North Carolina.

Division of Parks and Recreation: The mission of the Division of Parks and Recreation is to protect North Carolina's natural diversity, provide and promote outdoor recreation opportunities, and exemplify and encourage good stewardship of natural resources.

Ecosystem Enhancement Program: The mission of the Ecosystem Enhancement Program is to restore, enhance, preserve and protect North Carolina's natural resources for future generations while supporting responsible economic development.

Museum of Natural Sciences: The purpose of the Museum of Natural Sciences is to enhance the public's understanding and appreciation of the natural environment in ways that emphasize the natural diversity of North Carolina and the southeastern United States; relate the region to the natural world as a whole; and engage the public in understanding the scientific research that affects their lives.

Office of Conservation, Planning and Community Affairs: The Office of Conservation, Planning and Community Affairs provides scientific and policy information and incentives to guide and support conservation actions of North Carolina's conservation agencies, organizations and citizens. The office fosters partnerships that inform and support conservation and promotes resilient communities in our state.

Zoological Park: The state Zoological Park is designed to portray and reflect the natural environment of the species on display at the numerous exhibits.

Compliance and Enforcement Program Structure

North Carolina DENR's central office is located in Raleigh. Seven DENR Regional Offices, located in Asheville, Fayetteville, Mooresville, Raleigh, Washington, Wilmington and Winston-Salem, perform the department's duties on a local level. The Divisions listed above conduct compliance assurance and enforcement activities. There is no centralized multimedia enforcement office at DENR. The central office is largely responsible for policy decision, guidelines, regulatory interpretations, and formal enforcement actions, while the regional offices and the 16 home-based RCRA staff members conduct compliance assurance activities and informal enforcement actions (e.g. notices of violation).

Roles and Responsibilities

Enforcement processes in DENR begin with the discovery of a violation. This discovery may be through an inspection of the regulated site by a regional inspector or it may come from routine monitoring reports that the responsible party (RP) is required to submit on a schedule. DENR also responds to citizen complaints. Complaints are referred to the appropriate program staff for investigation; if the investigation finds that a violation occurred, enforcement action follows. When a violation is discovered, the inspector will consult with the supervisor to decide the next step of enforcement. Most programs have an enforcement coordinator in the central office in Raleigh who will work with the regional office staff to begin the enforcement process.

Depending on the nature of the violation, enforcement options may include a notice of deficiency (NOD), notice of violation (NOV), administrative order by consent (AOC), or a unilateral compliance order. Both a NOD and a NOV identify any corrective action that the violator is required to take and set a deadline for compliance. First time violators usually receive an NOV; there may be no further enforcement action if the violator promptly corrects the violation. Failure to meet a compliance deadline generally results in a civil penalty assessment. Other factors that may lead to a civil penalty or increase the amount of the penalty include the degree of harm resulting from the violation and the past compliance history of the violator. Most programs have the authority to use temporary restraining orders or injunctions to compel compliance if issuance of an NOV and request for corrective action has not been effective.

Although the enforcement process varies somewhat among the different programs, generally enforcement staff prepare an enforcement package that goes through management review within the Division. In some programs, the Attorney General's Office is actively involved in drafting civil penalty assessments; in others, the civil penalty assessment is developed within the program and the Attorney General's Office becomes involved if there is an appeal of the penalty or a request for judicial collection of the penalty once appeals have been exhausted. All requests for injunctive relief go to the Attorney General's Office. If the enforcement action merits a request for injunctive relief to stop an ongoing violation or to compel corrective action, the Attorney General's Office files suit in Superior Court to request the appropriate court order.

When an RP receives an enforcement action, they have several options available. The RP may pay the penalty, request a reduced penalty through informal settlement or remission, or the RP may appeal the decision to the Office of Administrative Hearings (OAH). An appeal to the OAH, must be filed within thirty days. If there is a hearing, the Administrative Law Judge will decide whether the penalty is supported by the evidence and consistent with applicable law. This decision can be appealed through Superior Court, Court of Appeals, or to the State Supreme Court.

Local Agencies Included and Excluded From Review

There are three local agencies in North Carolina delegated below the state level to conduct work in the air programs evaluated under the SRF: Mecklenburg County Department of Environmental Protection, Western North Carolina Regional Air Pollution Control Agency, and Forsyth County

Environmental Affairs Department. A review of the Forsyth County local program was conducted during Round 1. Mecklenburg County is slated for Round 3 review in a later year. As a result, no local agencies were included in the SRF Round 3 review of the state program.

Resources

CAA Resources: The DAQ maintains approximately 63 fulltime equivalent (FTEs) staff available to implement the state's compliance monitoring and enforcement program. These FTEs are composed of staff from the regional and central offices. The duties of the regional staff include, but are not limited to, conducting compliance evaluations (i.e., inspections), responding to complaints, attending source tests, reviewing reports and notifications, determining compliance status, issuing NOVs and developing enforcement cases, and entering compliance and enforcement activities into the database. The duties of the central office staff include, but are not limited to, reviewing source test reports, Continuous Opacity Monitoring Systems/Continuous Emissions Monitoring Systems (COMS/CEMs) reports, and enforcement cases. The DAQ maintains approximately 45 FTEs for compliance and enforcement activities in the regional offices and approximately 18 FTEs in the central office.

The DAQ budget has resulted in resource constraints that make hiring staff to fill vacancies difficult. The DAQ management carefully evaluates all vacancies on a case-by-case basis. Some vacant positions have been permanently eliminated. Despite these challenges, the DAQ continues to meet its compliance goals and to maintain a successful and effective enforcement program.

Sections	Offices	Positions	Direct Compliance/ Enforcement Positions	FTEs
Director's Office /Section Chiefs		12	2	1.24
Business Office		8	0	0
Central Permitting		28	0	0
Planning		25	0	0
Central Ambient		28	0	0
Technical Services				
	Stationary Source Compliance	16	13	8.06
	Mobile Sources	10	8	4.96
	Toxics Protection	14	5	3.1
Regional Offices				
	Asheville	14	9	5.58
	Fayetteville	12	9	5.58
	Mooreville	22	14	8.68
	Raleigh	23	13	8.06
	Washington	13	9	5.58
	Wilmington	13	8	4.96
	Winston-Salem	21	11	6.82
Totals		259	101	62.62

An FTE is based on 63% of work year (2,080 hours) devoted to compliance and enforcement. The remainder of the year is allocated to other DAQ activities, holidays and other anticipated leave time.

CWA Resources: There are 98 FTEs available to implement the state's NPDES Wastewater, NPDES Storm water, compliance monitoring and enforcement program. Of the 98 FTEs, 36 are located in the central office. The remaining FTEs are distributed by Regional Offices as follows:

- Asheville Region 7 FTEs
- Fayetteville Region 9 FTEs
- Mooreville Region 7 FTEs
- Raleigh Region 13 FTEs
- Washington Region 10 FTEs

- Wilmington Region 7 FTEs
- Winston-Salem Region 9 FTEs

Overall the Division has experienced a 16% decrease in workforce since 2007. The cause of this reduction was primarily a loss of state appropriated funding. DWQ had a \$15.4 M state appropriation in FY09, which has been reduced to \$11.5 M (a 25% reduction) in FY13. Meanwhile, federal grants (other than American Recovery and Reinvestment Act of 2009 funds) remain flat and permit fees have decreased by \$500,000 from peak collections. The cuts necessitated by the reduction in state appropriations were met by a combination of position cuts and decreases in operating costs.

RCRA Resources: There are currently 44 FTEs in the Hazardous Waste Section, 28 of which are located in the Raleigh headquarters office and 16 of which are home-based throughout the state. While the 16 home-based staff are spread across the state geographically, there are more in areas that see more activity, such as Mecklenburg County, than in more rural areas. There are a total of 13 inspectors and three supervisors assigned to implement the compliance assistance and inspection program (these are the home-based staff members). An additional three technical staff members and one attorney (assigned to the Office of the Attorney General) are responsible for preparing enforcement actions against facilities found to be in violation of RCRA standards. The compliance and enforcement program is overseen by a Branch Head.

Staffing and Training

CAA: DAQ management carefully evaluates all vacancies on a case-by-case basis. Twenty-seven positions have been permanently eliminated since 2010. The DAQ follows the guidance provided by DENR in recruiting and selecting qualified staff. A copy of DENR's policy can be found at <http://portal.DENR.org/web/hr/policy-and-procedure>. In addition, the DAQ is committed to creating a learning oriented environment to develop knowledge, skills, and abilities of employees. The DAQ has developed a training matrix (http://daq.state.nc.us/employee/training/DAQ-Training_Matrix.pdf) that outlines the minimal training requirements for each specific position. The DAQ provides employees with directions, resources, and guidance on training and development. Required OSHA training occurs annually and other training is offered via webinars, conferences and classes as funding allows.

CWA (North Carolina DWQ Hiring Program): North Carolina employs a merit-based recruitment and selection plan. This plan evolved from Senate Bill 886 that was passed by the North Carolina Legislature in 1997. The purpose of the merit-based recruitment and selection plan is to fill positions subject to the State Personnel Act from among the most qualified individuals based on the requirements of the job. The individual selected for the position must be chosen from the pool of the most qualified candidates. The adoption in 2012 of Neogov®, an on-line employment listing and application tool, has significantly increased the size of applicant pool and increased overall quality.

RCRA: The compliance and enforcement program is fully staffed at the present time and is not expecting to be significantly impacted in the near future by vacancies. Training is provided

when it is applicable to job duties and funding is available. Staff turnover is not a significant issue in the RCRA program.

Data Reporting Systems and Architecture

CAA: The DAQ uses a J2EE/Oracle based Internet-enabled enterprise application and database system, called IBEAM, for all its enforcement and compliance data. A summary of the architecture of IBEAM can be found at <http://portal.DENR.org/web/its/ibeam>. A user group composed of DAQ staff and IT personnel worked for many years to develop compliance and enforcement modules in IBEAM for housing data that is reported to the EPA national data system. The user group also developed QA/QC rules to ensure that the data is entered into IBEAM accurately and in a timely manner. Compliance and enforcement data meeting the EPA's MDRs are downloaded from IBEAM and fed to AFS twice per month. The frequency of data uploads was doubled in 2012 in order to more fully comply with timeliness requirements in the 2011 Information Collection Request.

CWA Basinwide Information Management System (BIMS): The BIMS application system development effort started in late 1998. This work effort converted and integrated scores of diverse application systems across the organization into one consolidated data repository and user interface. BIMS provides the DENR DWQ user communities with a tool that facilitates a cohesive working environment across unique, but related, operational areas. All BIMS users share a common interface and a central, integrated database. The BIMS is customized to support the business conducted by over 300 DWQ end users and 100 municipalities across the state. Additional internal and external users are continuously being added. BIMS architecture includes JAVA, Struts, EJB, and DB2. Data is entered into BIMS daily by various users who enter permit, DMR, compliance monitoring and enforcement data into BIMS daily. After staff review, this data is subsequently uploaded to EPA's database system. During December 2012, DWQ's data was migrated from EPA's old database system (PCS) to its modern system, ICIS-NPDES.

RCRA: The HWS serves as the Implementer of Record for RCRAInfo and enters all North Carolina compliance and enforcement information within five days of receipt. The HWS staff routinely updates programmatic modules of the database (including the Compliance/Enforcement module) using direct data entry, and staff and supervisors routinely verify data accuracy and ensure that corrections are made as required.

Hazardous waste notifications (EPA Form 8700-12) are managed by the Financial Management and Information Unit personnel, with data entered manually. Handler information is entered within five days of receipt which allows EPA to view the changes that occur in the universe. The entering of data into the national database allows EPA instant access to data elements that are required by EPA.

Major State Priorities and Accomplishments

CAA Priorities: The following are the compliance and enforcement priorities for DAQ:

- Responding to complaints from the public. Complaints should be addressed as soon as practically possible. Most of the complaints involve open burning, and consequently, the DAQ has a strong open burning investigation and enforcement program.
- Inspecting permitted facilities:
 - Conducting inspections or full compliance evaluations (FCEs) and on-site visits at all title V facilities and all synthetic minor facilities annually.
 - Conducting inspections at all true minor permitted facilities every two years.
 - Meeting the EPA's Compliance Monitoring Strategy.
- Maintaining a strong, fair, effective, and transparent enforcement program.
- Maintaining written guidelines that outline appropriate enforcement actions. The written guidance is routinely reviewed and updated so that it reflects the current policies and procedures of DENR and the DAQ.
- Reinforcing the written guidelines through regular meetings with regional and central office permitting and compliance staff.
- Providing updates of enforcement activities on the DAQ's website and to the public.

CAA Accomplishments: The DAQ's compliance and enforcement program covers both permitted facilities and non-permitted entities. The DAQ spends a great deal of its time and resources on compliance and enforcement of non-permitted entities, and none of this effort is reflected in the SRF. The DAQ's compliance and enforcement accomplishments for FY 2011 are listed below:

General Accomplishments:

- Conduct outreach to the permitted and unpermitted regulated community
- Provide content for industry group workshops (for example, MCIC)
- Attend conferences and speak to industry representatives to explain our rules and processes to insure facilities have the tools to meet their compliance obligations

Permitted Facilities:

- Observed 140 source tests
- Approved 128 Test protocols
- Reviewed 170 Source tests
- Conducted 2,450 inspections
- Issued 264 notices of violations
- Assessed 46 civil penalty assessments to permitted facilities, totaling \$235,700
- Issued two Special Orders by Consent, requiring \$30,000 in upfront penalties

Non-permitted Entities

- Received 1,397 complaints, including complaints regarding odors, open burning, fugitive dust, and visible emissions.
- Conducted 571 onsite investigations
- Issued 456 notices of violations
- Assessed 105 civil penalty assessments to non-permitted entities (primarily open burning violators), totaling \$114,967

CWA Priorities: In line with EPA’s goals and objectives, the DWQ seeks to protect and enhance water quality where it is adversely affected by pollution. The Division will accomplish this by operating effective planning and monitoring programs, operating effective and efficient permitting and compliance programs, effectively planning and implementing funding to achieve the core goals and effectively managing and leading staff to ensure the Division is capable of fulfilling its mission.

CWA Accomplishments: The following are the compliance and enforcement accomplishments provided by DWQ:

Tiered Enforcement Strategy and Notification: Pursuant to North Carolina session laws passed in 2011, a tiered enforcement policy and notification were adopted by the Division. The new requirement that the permittees be given written notification 10 days before an enforcement action is generated spurred dialogue that resulted in corrective actions and increased compliance. The adoption of a tiered enforcement approach to better address certain lower level violations such as minor paperwork errors has allowed increased attention and resources towards more serious compliance issues.

Inspections Conducted and Penalties Assessed:

- Inspections conducted: 9102
- Compliance Evaluation Inspections: 3847
- Other inspection types: 5,255
- Civil penalty assessments issued: 527
- Total penalties (including enforcement costs): \$824,199.

RCRA Priorities: During FY 11, the HWS continued to demonstrate its commitment to protecting human health and the environment through a holistic approach to compliance and enforcement. This was accomplished with a proactive compliance and monitoring program that focused on national and state priorities. Continuing priorities included

- 1) never inspected generators;
- 2) facilities that were the subject of citizen complaints;
- 3) non-notifier facilities that were believed to have generated hazardous waste; and
- 4) recalcitrant or repeat violators.

North Carolina also placed a priority on inspecting hazardous waste transporters and transfer stations. The Mercury Switch Removal Program, a state initiative established by the General Assembly in 2007, continues to be a state priority.

RCRA Accomplishments:

The Mercury Switch Removal Program

During FY 2011 the HWS continued implementing requirements of the Mercury Switch Removal Program. North Carolina legislation requires the removal of convenience lighting assemblies from “end-of-life” automobiles prior to crushing, shredding and recycling. Currently North Carolina ranks number 3 in the nation for removal efficiency. These results were achieved through the efforts of four office staff members providing program support and 10 field staff

members performing 450 site evaluations in FY 2011. With 95 pounds of mercury collected in FY 2011, more than 678 pounds of mercury have been collected and recycled in North Carolina since the start of the NC Mercury Switch Removal Program. The mercury switches removed were managed as universal waste. The removal of these switches from the scrap metal waste stream is expected to significantly reduce mercury emissions from steel mills.

Large Generator Workshops

For the 19th year, during the months of April and May of 2011, Compliance Branch staff conducted four Generator Workshops across the state. The training sessions focused on regulations, new initiatives, section/branch policies and proposed legislation and rules applicable to large quantity generators (i.e., facilities that generate greater than 2,200 pounds of hazardous waste in one calendar month) and they allowed for audience interaction. Over 340 stakeholders from various industries, military installations, universities, and municipalities attended the workshops. Historically, the compliance rate has exceeded 94% for the attending facilities.

Inspection Coverage

The HWS inspected over 50% of large quantity generators and 8.5% of small quantity generators of hazardous waste during FY 2011. This significantly exceeds the yearly RCRA grant requirements.

Environmental Outcome Measures

During FY 2011, compliance and enforcement activities resulted in the protection of approximately 1,048 individuals from potentially injurious exposure to hazardous waste. In addition, 187 tons of solid hazardous waste and 20,824 gallons of liquid hazardous wastes that were identified as being mismanaged were addressed by appropriate enforcement action.

Pre-Compliance Site Visits

A new Large Quantity Generator that notifies of its hazardous waste activities is targeted for a pre-compliance visit. Within 90 days of receiving the notification for hazardous waste activity, the compliance staff conducts a site visit to provide guidance and instructions regarding hazardous waste policy and compliance expectations in an effort to improve initial compliance and to establish a relationship with the regulated entity.

Appendix F: SRF Correspondence

Kick-off letter

September 24, 2012

Mr. Dee A. Freeman
Secretary
North Carolina Department of
Environment and Natural Resources
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Dear Secretary Freeman:

As discussed with Robin Smith and North Carolina Department of Environment and Natural Resources (DENR) enforcement managers on September 5, 2012, Region 4 is initiating a review of DENR's enforcement and compliance programs. This review will be conducted using the Round 3 State Review Framework (SRF) protocol, and will consist of a review of DENR's Clean Air Act (CAA) Stationary Source program, Resource Conservation and Recovery Act (RCRA) Subtitle C program and an integrated review of the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program, which will include an NPDES Permit Quality Review (PQR) along with the Round 3 CWA SRF. The SRF and NPDES PQR will be conducted by regional staff and will be based on inspection and enforcement activities from federal fiscal year 2011 and from permitting actions taken during federal fiscal years 2011 and 2012.

While discussions are beginning between our staff and yours regarding logistics and scheduling, we thought it would be helpful to provide additional background and context for the upcoming review.

SRF Background

The SRF is a continuation of a national effort that allows EPA to ensure that State agencies meet agreed-upon minimum performance levels in providing environmental and public health protection. The SRF looks at twelve 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). The review is conducted in three phases: analyzing information from the national data systems, reviewing a limited set of state files, and the development of findings and recommendations.

North Carolina's CAA, RCRA and CWA NPDES enforcement and compliance programs have been reviewed under the SRF protocol in 2006 and 2009. A copy of these reports can be found on the SRF website at: <http://www.epa.gov/compliance/state/srf/>

Permit Quality Review and the Integrated Review Background

EPA reviews state NPDES programs every four years as part of the PQR process. The PQR assesses the State's implementation of the requirements of the NPDES program as reflected in the permit and other supporting documents (e.g., fact sheet, calculations, etc.).

As part of the Clean Water Act Action Plan, the Office of Water (OW) and the Office of Enforcement and Compliance Assurance (OECA) have developed a process to integrate oversight of state NPDES permitting and enforcement programs by integrating the SRF and the PQR at the regional level. In FY2011, a workgroup was formed to revise the PQR process, and develop guidance for implementation of these reviews. The revised PQR process will continue to assess how well states implement NPDES program requirements as reflected in permits and other supporting documents, and shifts responsibility for conducting reviews from EPA Headquarters to the regional offices. This integrated approach will also provide a better appreciation of the work and challenges of a state NPDES program by coordinating the SRF and PQR processes, and allow increased transparency by making the PQR and SRF results publically available on EPA's website.

For your information, a Permitting for Environmental Results review of North Carolina's NPDES program was conducted in 2004 and can be accessed at http://www.epa.gov/npdes/pubs/northcarolina_final_profile.pdf. A subsequent file review was conducted in 2009 by EPA HQ staff.

Overview of the Process for Reviews

Staff from the Region's Office of Environmental Accountability (OEA) and the Water Protection Division will be conducting the SRF/PQR integrated review. As mentioned previously the SRF will also include a review of the State's CAA and RCRA programs. An integral part of the integrated review process is the visit to state agencies. State visits for this review will include:

- Discussions between Region 4 and DENR program managers and staff
- Examination of data in EPA and DENR data systems
- Review of selected permitting, inspection and enforcement files and policies

The EPA Region 4 SRF coordinator for the review is Becky Hendrix and she can be reached at (404) 562-8342 and by email at hendrix.becky@epa.gov. The contacts for PQR are Pamala Myers (wastewater) who can be reached at (404)562-9421 and by email at myers.pamala@epa.gov, and Mike Mitchell (storm water) who can be reached at (404)562-9303 and by email at mitchell.michael@epa.gov. To facilitate the on-site file and permit review and to ensure that we maintain effective and open communication between our offices, we will be coordinating with program contacts who have been identified by your management. We will also work closely with Robin Smith as the point of contact for management review.

Following the SRF file review, which is scheduled for late November, Region 4 will summarize findings and recommendations in a draft report. Your management and staff will be provided an opportunity to review the draft report and provide a response to the findings, which will be incorporated in the final report.

Region 4 and DENR are partners in carrying out the review. If any areas for improvement are identified, we will work with you to address them in the most constructive manner possible. As we have discussed, we are committed to conducting these reviews as efficiently as possible and we will work with your staff to ensure this is accomplished.

Next Steps

In October we will provide the DENR points of contact with an analysis of the SRF CWA, CAA and RCRA Data Metrics that will be used for the review, along with a list of selected facility enforcement files to be reviewed. Later in the fiscal year, the Regional PQR coordinator will provide a list of permits to be reviewed and contact you to set a schedule for the PQR file review. We will continue to work with your staff to coordinate convenient times for our on-site file reviews.

Should you have questions or wish to discuss this matter in greater detail, please feel free to contact either of us through Scott Gordon, Associate Director of OEA, at (404) 562-9741.

Sincerely,

/s/

/s/

Mary J. Wilkes
Regional Counsel and Director of the
Office of Environmental Accountability

James D. Giattina
Director
Water Protection Division

CAA DMA and File Selection correspondence September 26, 2012

From: Mark Fite/R4/USEPA/US
To: michael.pjetraj@DENR.gov
Cc: Beverly Spagg/R4/USEPA/US, Dick DuBose/R4/USEPA/US, Wendell Reed/R4/USEPA/US@EPA, Steve Hitte/R4/USEPA/US, Becky Hendrix/R4/USEPA/US
Date: 09/26/2012 08:31 AM
Subject: North Carolina DMA and File Selection

Michael-

I've attached below the Data Metric Analysis (DMA) and file selection list for the Round 3 North Carolina SRF review. As we discussed, we plan to conduct the file review in your offices the week of November 26, 2012. The DMA is new for Round 3 (replaces the PDA used in Round 2). It provides our analysis of the verified data NC has entered into AFS for FY11, and highlights any potential concerns based on that data. I've also included the file selection logic, which explains the process used to select the files. The last attachment is the kick-off letter we sent to the DENR secretary on Monday.

It's my understanding that you will secure the files needed from your regional offices and make them available to us in either electronic or hard copy format at your office in Raleigh. As you may recall from the Round 2 review, we will want to look at documentation related to any inspections and formal or informal enforcement actions conducted at these sources during FY11. More specifically, for each source, please make available for our review the following types of documentation: inspection reports, notices of violation, compliance or administrative orders, penalty calculations, penalty justification, penalty payment documentation, stack test reports/reviews, Title 5 annual compliance certification reviews, etc. In addition, we'll also need access to the most recent Air permit for each source. If the state has developed or revised guidance or policy documents related to compliance and

enforcement, we will want copies of those as well (you can send those to me in advance, if you wish). Examples include penalty policies, inspection guidance, enforcement procedures, etc.

I wanted to confirm a few logistical details as well. Wendell Reed and I plan to fly from Atlanta to Raleigh on Monday morning (11/26). We haven't been able to book our flights yet, but if possible, let's tentatively plan an opening conference around 11 AM on Monday morning. I usually like to do a brief Power Point presentation at this meeting - do you have a proxima/projector we could use? (If not, I can bring one). We will also need an office or conference room in which to "spread out" and review files.

We'll also want to have a closing conference sometime Friday morning. My management likes to participate in these, so as we get closer to the date, we will want to firm up a mid-morning time slot (maybe 10 am) so we can get back to Atlanta that afternoon.

I look forward to seeing you again in November. Please let me know if you have any questions.

Mark J. Fite
Technical Authority (CAA, EPCRA, FIFRA, TSCA)
Enforcement & Compliance Planning & Analysis Branch
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth St., SW
Atlanta, GA 30303
fite.mark@epa.gov
404.562.9740

CWA DMA and File Selection Correspondence
November 20, 2012

Jeff/Vanessa:

I've attached below the Data Metric Analysis (DMA) and file selection list for the Round 3 North Carolina SRF review. As we discussed, we plan to conduct the file review in your offices the week of January 7, 2013. The DMA is new for Round 3 (replaces the PDA used in Round 2). It provides our analysis of the verified data NC has entered into ICIS for FY11, and highlights any potential concerns based on that data. I've also included the file selection logic, which explains the process used to select the files. The last attachment is the kick-off letter we previously sent to the DENR secretary.

It's my understanding that you will secure the files needed from your regional offices and make them available to us in either electronic or hard copy format at your office in Raleigh. As you may recall from the Round 2 review, we will want to look at documentation related to any inspections and formal or informal enforcement actions conducted at these sources during FY11. More specifically, for each facility, please make available for our review the following types of documentation: inspection reports, notices of violation, compliance or administrative orders, penalty calculations, penalty justification, penalty payment documentation, etc. If the state has developed or revised guidance or policy documents related to compliance and enforcement, we will want copies of those as well (you can send those to me in advance, if you wish). Examples include penalty policies, inspection guidance, enforcement procedures, etc.

I wanted to confirm a few logistical details as well. Laurie Lindquist (the NC Pacesetter from the Clean Water Enforcement Branch) and I plan to be in your office Monday morning (1/7). Let's tentatively plan an opening conference around 9 AM on Monday morning. We will also need an office or conference room in which to "spread out" and review files during the week.

Additionally, since the SRF reviews are now being integrated with the Permit Quality Review (PQR), Region 4's Permit Program staff who will be conducting the PQR portion of the integrated SRF/PQR review will be likely be in the office to conduct the NC PQR.

We'll also want to have a closing conference sometime Friday morning. My management likes to participate in these, so as we get closer to the date, we will want to firm up a mid-morning time slot.

I look forward to seeing you January. Please let me know if you have any questions.

Thanks - Ron

Ronald J. Mikulak
Water Technical Authority
Enforcement & Compliance Planning and Analysis Branch
Office of Environmental Accountability
EPA - Region 4

COMMUNICATION WITH NC DENR ON RCRA FILE REVIEW
September 30, 2012

From: Shannon Maher/R4/USEPA/US
To: dexter.matthews@DENR.gov, elizabeth.cannon@DENR.gov,
mike.williford@DENR.gov, helen.cotton@DENR.gov
Cc: Cesar Zapata/R4/USEPA/US@EPA, Nancy McKee/R4/USEPA/US@EPA, Steve
Hitte/R4/USEPA/US@EPA, Becky Hendrix/R4/USEPA/US@EPA, Kelly
Sisario/R4/USEPA/US@EPA, Doug McCurry/R4/USEPA/US@EPA
Date: 09/13/2012 04:50 PM
Subject: NC RCRA SRF - Data Metric Analysis & File Selections

Hi everyone,

As discussed in the meeting between EPA Region 4 and NC DENR last week, the State Review Framework (SRF) Round 3 evaluation for NC DENR is scheduled to take place during the fall of 2012. Yesterday I confirmed with Dexter Matthews and Liz Cannon the dates for the RCRA file review, which will take place the week of November 26-30, 2012. To kick-off the SRF process, I am forwarding the following materials for your review:

- (1) EPA's analysis of North Carolina's RCRA SRF data metrics (using the FY2011 "frozen data" on EPA's OTIS website);
- (2) the files that have been selected for the SRF RCRA file reviews (40 total);
- (3) the file selection logic document that provides the process used to select the files.

Nancy McKee, the EPA North Carolina State Coordinator from the RCRA & OPA Enforcement & Compliance Branch, will also take part in the file review. The opening conference would likely take place late morning/early afternoon on Monday, November 26, with an exit conference on Friday morning, November 30. To help frame the file review, if the state has developed guidance or policy documents related to compliance and enforcement, could you forward those to me in advance of the onsite visit? Examples include penalty policies, inspection guidance, enforcement procedures, etc., either specific to the RCRA program or for DENR in general.

After you have had time to review the materials, I would propose a conference call sometime in October to walk through the SRF data metrics and the file review process. I will be out of the office for the next couple of weeks, and will touch base with you when I return to work to see about setting up a call. I look forward to meeting with you in November, and please let me know if you have any questions.

Thanks,
Shannon Maher
U.S. Environmental Protection Agency - Region 4
Office of Environmental Accountability

TRANSMITTAL OF DRAFT REPORT TO NCDENR

April 19, 2013

To: mitch.gillespie@ncdenr.gov

Dear Mr. Gillespie:

As I had referenced in my telephone message, attached is draft of the NC SRF review for your review and comment. We appreciate the cooperation from the staff at North Carolina DENR during the file reviews and report development. The professionalism and courtesy shown to EPA helped smooth the process tremendously.

EPA requests that DENR review the report, and where there are comments on the findings, provide these in the designated "State Response" section in each element in the report. DENR may also want to update the information that you provided previously for the General Program Review section (Appendix E). Comments on the draft SRF report are requested within 30 days and can be sent electronically to Becky Hendrix at hendrix.becky@epa.gov.

If your staff have specific questions related to the SRF findings, the SRF program reviewers can be contacted directly. Contact information is as follows:

CAA
Mark Fite
(404) 562-9740

CWA
Ron Mikulak
(404) 562-9233

RCRA
Shannon Maher
(404) 562-9623

In addition, Becky Hendrix, the SRF Coordinator, can set up a multi-party conference call if that would be beneficial.

As you know, the Round 3 review includes an NPDES Permit Quality Review (PQR). That review will be initiated later in the year, and the results will be included in the final report. DENR will have an

opportunity to review the PQR and provide comments before the report is finalized. Questions regarding the PQR should be addressed to Chris Thomas at thomas.chris@epa.gov, and (404) 562-9459

Please contact me if you have any questions about the report or need additional time for your review. You can reach me at (404) 562-9741. We look forward to working with you to finalize the review. Thank you for your cooperation on this effort. Scott Gordon

STATE REVIEW FRAMEWORK

Mecklenburg County, North Carolina

Clean Air Act Implementation in Federal Fiscal Year 2016

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

**Final Report
December 4, 2017**

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Executive Summary

Introduction

EPA Region 4 enforcement staff conducted a State Review Framework (SRF) program oversight review of the Mecklenburg County Air Quality (MCAQ) Clean Air Act (CAA) compliance and enforcement program in Charlotte, North Carolina.

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

Areas of Strong Performance

- MCAQ made accurate compliance determinations for both HPV and non-HPV violations.
- MCAQ met the negotiated frequency for inspection of sources, and Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs) included all required elements.

Priority Issues to Address

The following are the top-priority issues affecting the local program's performance:

- No documentation was provided to indicate the consideration of economic benefit in penalty calculations.

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I. Background on the State Review Framework

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

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

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

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

EPA builds consultation into the SRF to ensure that EPA and the state or local program understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response. Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state and local programs.

Each state's programs are reviewed once every five years. Local programs are reviewed less frequently, at the discretion of the EPA Regional office. The first round of SRF reviews began in FY 2004, and the second round began in FY 2009. The third round of reviews began in FY 2013 and should be completed by first quarter of FY 2018.

II. SRF Review Process

Review period: 2016

Key dates: March 2, 2017, letter sent to Local program kicking off the Round 3 review
May 9 – 11, 2017, on-site file review for CAA

Local Program and EPA key contacts for review:

	Mecklenburg County	EPA Region 4
SRF Coordinator	Leslie Rhodes	Kelly Sisario, OEC
CAA	Jason Rayfield	Mark Fite, OEC
		Wendell Reed, APTMD

III. SRF Findings

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

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

There are three categories of findings:

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

Area for State¹ Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state or local should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

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

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

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

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

¹ Note that EPA uses a national template for producing consistent reports throughout the country. References to “State” performance or responses throughout the template should be interpreted to apply to the Local Program.

Clean Air Act Findings

CAA Element 1 — Data																																										
Finding 1-1	Area for State Attention																																									
Summary	Minimum data requirements (MDRs) reported by MCAQ into ICIS-Air are accurate for most files. Timeliness of data reported into ICIS-Air was generally good, with a few late enforcement and stack test MDRs.																																									
Explanation	<p>File Review Metric 2b indicated that 80% (16 of 20) of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. The remaining 4 files had one or more discrepancies between information in the files and data entered into ICIS-Air. Three sources had activities reported with inaccurate dates. Two sources had missing Air Program subparts. EPA acknowledges that MCAQ has already corrected these discrepancies in the data system.</p> <p>Metric 3a2 indicated that MCAQ did not have any HPVs identified in the review year, and Metric 3b1 (96.6%) indicated that MDRs for compliance monitoring were entered into ICIS-Air within 60 days. However, Metrics 3b2 (67%) and 3b3 (60%) indicated that MDRs for stack tests and enforcement activities were not always entered timely. MCAQ identified the root causes that resulted in the late entries and has already taken corrective action. Since on the whole, only 8% of the MDRs were entered late (8 of 101), and the county has self-corrected the problems with stack test and enforcement data entry, this element is rated as an area for attention.</p>																																									
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in ICIS-Air</td> <td>100%</td> <td></td> <td>16</td> <td>20</td> <td>80%</td> </tr> <tr> <td>3a2 Timely reporting of HPV determinations</td> <td>100%</td> <td>99.9%</td> <td>0</td> <td>0</td> <td>NA</td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td>100%</td> <td>68.3%</td> <td>84</td> <td>87</td> <td>96.6%</td> </tr> <tr> <td>3b2 Timely reporting of stack test MDRs</td> <td>100%</td> <td>63.8%</td> <td>6</td> <td>9</td> <td>67%</td> </tr> <tr> <td>3b3 Timely reporting of enforcement MDRs</td> <td>100%</td> <td>61.3%</td> <td>3</td> <td>5</td> <td>60%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in ICIS-Air	100%		16	20	80%	3a2 Timely reporting of HPV determinations	100%	99.9%	0	0	NA	3b1 Timely reporting of compliance monitoring MDRs	100%	68.3%	84	87	96.6%	3b2 Timely reporting of stack test MDRs	100%	63.8%	6	9	67%	3b3 Timely reporting of enforcement MDRs	100%	61.3%	3	5	60%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																																					
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3b3 Timely reporting of enforcement MDRs	100%	61.3%	3	5	60%																																					
State response	MCAQ is committed to providing accurate and timely information into ICIS-Air. To improve data entry procedures, in FY17, MCAQ created a new custom report to better query data from the agency's own database for uploading to the EPA system.																																									
Recommendation																																										

CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations																																				
Summary	MCAQ met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and included all required elements in their Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).																																				
Explanation	<p>Metrics 5a and 5b indicated that MCAQ provided adequate inspection coverage for major and SM-80 sources during FY16 by ensuring that each major source was inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years. In addition, Metric 5e documented that MCAQ reviewed Title V annual compliance certifications submitted by major sources and recorded these reviews in ICIS-Air.</p> <p>Metrics 6a and 6b (100%) confirmed that all elements of an FCE and CMR required by the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS Guidance) were addressed in facility files reviewed. EPA was initially concerned that several files did not reflect any visible emission (VE) observation during the inspection, even though all of MCAQ’s permits include a 20% opacity limit. MCAQ advised that this is a local permit requirement that is not included in their Federally-enforceable Local Implementation Plan (LIP). The county has updated their inspection report template to require that inspectors record pre-entry VE observations and emission source VE observations within the body of the report.</p>																																				
	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>5a FCE coverage: majors and mega-sites</td> <td>100%</td> <td>86.6%</td> <td>11</td> <td>11</td> <td>100%</td> </tr> <tr> <td>5b FCE coverage: SM-80s</td> <td>100%</td> <td>91.6%</td> <td>64</td> <td>66</td> <td>97%</td> </tr> <tr> <td>5e Review of Title V annual compliance certifications</td> <td>100%</td> <td>69.4%</td> <td>11</td> <td>11</td> <td>100%</td> </tr> <tr> <td>6a Documentation of FCE elements</td> <td>100%</td> <td></td> <td>20</td> <td>20</td> <td>100%</td> </tr> <tr> <td>6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance</td> <td>100%</td> <td></td> <td>20</td> <td>20</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a FCE coverage: majors and mega-sites	100%	86.6%	11	11	100%	5b FCE coverage: SM-80s	100%	91.6%	64	66	97%	5e Review of Title V annual compliance certifications	100%	69.4%	11	11	100%	6a Documentation of FCE elements	100%		20	20	100%	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		20	20	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																																
5a FCE coverage: majors and mega-sites	100%	86.6%	11	11	100%																																
5b FCE coverage: SM-80s	100%	91.6%	64	66	97%																																
5e Review of Title V annual compliance certifications	100%	69.4%	11	11	100%																																
6a Documentation of FCE elements	100%		20	20	100%																																
6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		20	20	100%																																
State response																																					
Recommendation																																					

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations					
Summary	MCAQ made accurate and timely compliance determinations for both HPV and non-HPV violations.					
Explanation	<p>Metric 7a indicated that MCAQ made accurate compliance determinations in all 20 files reviewed (100%).</p> <p>Metric 8a indicated that MCAQ’s HPV determinations were accurate (100%). More specifically, EPA reviewers agreed that MCAQ’s determinations concerning 4 FRVs from FY16 and one HPV from FY14 were accurate. Data Metric 13 indicated that there were no HPV determinations made during the review year (FY16).</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations	100%		20	20	100%
	8c Accuracy of HPV determinations	100%		5	5	100%
	13 Timeliness of HPV determinations	100%	86.1%	0	0	NA
State response						
Recommendation						

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations																																			
Summary	Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.																																			
Explanation	<p>Metric 9a indicated that all formal enforcement actions reviewed (100%) brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order. One source had two actions (one in FY14 and one in FY16) which were addressed with a penalty. A third formal action (FY16) had compliance obligations, but no penalty.</p> <p>During the file review, an additional enforcement action from FY14, which addressed an HPV, was added to the review. File Metrics 10a, 10b and 14 relate to this FY14 HPV action. Metric 10a indicated that the HPV was addressed within 180 days (100%). Metric 14 indicated that no case development and resolution timeline was developed or needed since this HPV was addressed within the target timeframe. In addition, Metric 10b indicated that appropriate enforcement action was taken to address the HPV.</p>																																			
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State response																																				
Recommendation																																				

CAA Element 5 — Penalties

Finding 5-1	Area for State Improvement																													
Summary	MCAQ considered gravity when calculating penalties, but no rationale was provided for not including economic benefit in the penalty; the collection of penalties and any differences between initial and final penalty assessments were adequately documented.																													
Explanation	<p>Two penalty actions (one from FY14 and one from FY16) were reviewed, and while each included a gravity component, neither reflected consideration of economic benefit, as indicated in Metric 11a (0%). The model “EPA” and “State” penalty worksheets used by MCAQ include a place for economic benefit to be entered, but this was not populated in the penalty calculations reviewed. Reviewers observed that the economic benefit portion of the “EPA” penalty worksheet was “greyed out” and the following notation was included: “Most calculations for this component are from the BEN computer model. In most cases, this component is usually waived and the Gravity Component is used to determine the Federal Matrix.”</p> <p>EPA’s expectation that state and local enforcement agencies document the consideration and assessment of both gravity and economic benefit is outlined in the 1993 Steve Herman memo entitled “Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework from State/EPA Enforcement Agreements.”</p> <p>MCAQ advised that staff participated in the March 2017 state-sponsored training on the use of BEN, and they have now incorporated documentation of economic benefit into their penalty calculations.</p> <p>Metric 12a indicated that all penalty calculations reviewed (100%) documented the difference between the initial and final penalty assessed. Finally, Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file.</p>																													
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State response	MCAQ calculates penalties using both federal Clean Air Act and state civil penalty factors. In March 2017, training on use of EPA’s BEN economic benefit model was provided to MCAQ and the agency now documents economic benefit or rationale for not including the component with all penalty actions. MCAQ will certify these procedures and provide recent examples to EPA by March 31, 2018.
Recommendation	By March 31, 2018, MCAQ should certify in writing to EPA what revised procedures have been implemented to ensure that the consideration of economic benefit is documented for all future penalty calculations. In particular, these procedures should document a more detailed rationale when no economic benefit is assessed.

STATE REVIEW FRAMEWORK

Western North Carolina

Clean Air Act Implementation in Federal Fiscal Year 2015

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

**Final Report
December 20, 2017**

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Executive Summary

Introduction

EPA Region 4 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Western North Carolina Regional Air Quality Agency (WNCRAQA), which has jurisdiction for Buncombe County and the City of Asheville, North Carolina.

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

Areas of Strong Performance

- WNCRAQA made accurate compliance determinations for both HPV and non-HPV violations.
- WNCRAQA met the negotiated frequency for inspections, and Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs) included all required elements.

Priority Issues to Address

The following are the top-priority issues affecting the local program's performance:

- Many of the minimum data requirements (MDRs) were not entered into ICIS-Air within the required timeframes, and discrepancies between the files and ICIS-Air were identified in about 31% of the files reviewed.

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I. Background on the State Review Framework

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

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

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection

EPA conducts SRF reviews in three phases:

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

EPA builds consultation into the SRF to ensure that EPA and the state or local program understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response. Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state and local programs.

Each state's programs are reviewed once every five years. Local programs are reviewed less frequently, at the discretion of the EPA Regional office. The first round of SRF reviews began in FY 2004, and the second round began in FY 2009. The third round of reviews began in FY 2013 and should be completed by first quarter of FY 2018.

II. SRF Review Process

Review period: 2015

Key dates: February 9, 2017, letter sent to Local program kicking off the Round 3 review
May 11 – 12, 2017, on-site file review for CAA

Local Program and EPA key contacts for review:

	Buncombe County	EPA Region 4
SRF Coordinator	David Brigman	Kelly Sisario, OEC
CAA	Ashley Featherstone	Mark Fite, OEC
		Wendell Reed, APTMD

III. SRF Findings

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

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

There are three categories of findings:

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

Area for State¹ Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state or local should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in an executive summary.

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

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

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

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

¹ Note that EPA uses a national template for producing consistent reports throughout the country. References to “State” performance or responses throughout the template should be interpreted to apply to the Local Program.

Clean Air Act Findings

CAA Element 1 — Data																																										
Finding 1-1	Area for State Improvement																																									
Summary	Many of the minimum data requirements (MDRs) were not entered into ICIS-Air within the required timeframes, and discrepancies between the files and ICIS-Air were identified in about 31% of the files reviewed.																																									
Explanation	<p>File Review Metric 2b indicated that 68.8% (11 of 16) of the files reviewed reflected accurate entry of all MDRs into ICIS-Air. The remaining 5 files had one or more discrepancies between information in the files and data entered into ICIS-Air. Three sources had missing air programs or subparts in ICIS-Air. Two other sources had informal actions for federally reportable violations (FRVs) which were not recorded in ICIS-Air. Incorrect data has the potential to hinder EPA’s oversight and targeting efforts and may result in inaccurate information being released to the public.</p> <p>Metric 3a2 (100%) indicated that WNCRAQA met the national goal by entering MDR data for HPVs into ICIS-Air within 60 days. However, Metrics 3b1 (4.2%), 3b2 (42.9%) and 3b3 (0%) indicated that MDRs for compliance monitoring, stack tests and enforcement activities were not entered timely.</p>																																									
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State response	Fiscal Year 2015 was the first year this Agency used the ICIS-Air system to report MDRs, and there was a significant learning curve from the previous system. Moving forward, the Agency plans to start monthly ICIS-Air meetings to review the previous month’s activities and to enter them into ICIS-Air.																																									
Recommendation	By March 31, 2018, WNCRAQA should certify in writing to EPA that inaccurate data identified by EPA has been corrected and what																																									

procedures have been implemented to ensure that all MDRs will be entered timely into ICIS-Air.

CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations					
Summary	WNCRAQA met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and included all required elements in their Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs).					
Explanation	Metrics 5a and 5b indicated that WNCRAQA provided adequate inspection coverage for major and SM-80 sources during FY15 by ensuring that each major source was inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years. In addition, Metric 5e documented that WNCRAQA reviewed Title V annual compliance certifications submitted by major sources and recorded these reviews in ICIS-Air. Finally, Metrics 6a and 6b confirmed that all elements of an FCE and CMR required by the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS Guidance) were addressed in facility files reviewed.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites	100%	63.2%	6	6	100%
	5b FCE coverage: SM-80s	100%	79.5%	10	10	100%
	5e Review of Title V annual compliance certifications	100%	39.1%	7	7	100%
	6a Documentation of FCE elements	100%		16	16	100%
	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		16	16	100%
State response						
Recommendation						

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations						
Summary	WNCRAQA made accurate and timely compliance determinations for both HPV and non-HPV violations.						
Explanation	<p>Metric 7a indicated that WNCRAQA made accurate compliance determinations in all 16 files reviewed (100%).</p> <p>Metric 8a indicated that WNCRAQA’s HPV determinations were accurate (100%), and Data Metric 13 confirmed that WNCRAQA’s HPV determinations were timely (100%).</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accuracy of compliance determinations		100%		16	16	100%
	8c Accuracy of HPV determinations		100%		1	1	100%
	13 Timeliness of HPV determinations		100%	82.6%	1	1	100%
State response							
Recommendation							

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations																																			
Summary	Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.																																			
Explanation	<p>Metric 9a indicated that all formal enforcement actions reviewed (100%) brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order.</p> <p>Metric 10a indicated that the one HPV action in FY15 was addressed within 180 days (100%). Metric 14 indicated that no case development and resolution timeline was developed or needed since this HPVs was addressed within the target timeframe.</p> <p>In addition, Metric 10b indicated that appropriate enforcement action was taken to address the HPV.</p>																																			
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State response																																				
Recommendation																																				

CAA Element 5 — Penalties

Finding 5-1	Area for State Attention																													
Summary	WNCRAQA considered gravity when calculating penalties, but no rationale was provided for not including economic benefit in the penalty; the collection of penalties and any differences between initial and final penalty assessments were adequately documented.																													
Explanation	<p>Only one penalty action was reviewed, and while it included a gravity component, it did not reflect consideration of economic benefit, as indicated in Metric 11a (0%). However, WNCRAQA's penalty policy provides extensive discussion on the need to recover economic benefit, and their penalty worksheet provides line items for delayed and avoided costs. EPA recommends that WNCRAQA document a more detailed rationale when no economic benefit is assessed. The county shared an example penalty calculation (from a prior action) that provided the type of narrative desired concerning economic benefit. Given that the policy framework and penalty worksheet are already in place which would allow the county to self-correct this issue, this element is rated as an area for attention.</p> <p>Metric 12a indicated that the one penalty calculation reviewed (100%) documented the difference between the initial and final penalty assessed. Finally, Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file.</p>																													
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State response	It was determined that there was no economic benefit for this violation, however we failed to document this analysis. In the future, the Agency will provided a statement or rationale for cases that did not have any economic benefit.																													
Recommendation																														