

STATE REVIEW FRAMEWORK

Arizona

**Clean Water Act, Clean Air Act, and
Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2013**

**U.S. Environmental Protection Agency
Region 9, San Francisco**

**Final Report
July 29, 2015**

Executive Summary

Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Arizona Department of Environmental Quality's Clean Water Act NPDES program, Clean Air Act Stationary Source program, and RCRA Hazardous Waste program.

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

- Clean Water Act inspection coverage at major and minor facilities as well as other programs meets or exceeds commitments in the state specific CMS plan.
- Clean Water Act inspection reports meet or exceed EPA's expectations for report quality, accuracy of compliance determinations, and timeliness of completion.
- Water penalty calculation and collection is well documented.
- ADEQ evaluates air CMS sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The ADEQ air inspection reports which contained more narrative were well done.
- The RCRA Field Inspection Report process is effective in supporting ADEQ's goal to complete and issue all inspection reports within 30 days of the inspection, and facilitates achievement of ADEQ's return-to-compliance objectives.

Priority Issues to Address

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

- Completeness and accuracy of CWA NPDES data reported in ICIS
- Some CWA informal enforcement actions did not return facilities to compliance.
- Timely and appropriate CWA enforcement
- Air data reported into AFS is missing or inaccurate.
- Air High Priority Violations (HPVs) are not being identified, and therefore are not reported in AFS, nor enforced in a timely and appropriate manner.

Most Significant CWA-NPDES Program Issues¹

- Completeness and accuracy of data on permit limits, discharge data, inspections, violations, and enforcement actions reported in ICIS is unreliable. (CWA Finding 1-1)
- Single event violations (SEVs) for major facilities are not reported or entered into ICIS as required by EPA. (CWA Finding 3-1)
- Significant non-compliance at major facilities is above the national average. (CWA Finding 3-3)
- 20% of reviewed enforcement actions did not return facilities to compliance. (CWA Finding 4-1)
- Timely and appropriate enforcement is low at major facilities and non-major facilities as reported to EPA and in actions reviewed on-site. (CWA Finding 4-2)

Most Significant CAA Stationary Source Program Issues

- Lack of penalty actions resulting from informal enforcement actions (Notices of Violation or Compliance.)
- Non-adherence to EPA's 1998 HPV policy regarding identifying, reporting, and acting on high priority violations.
- The accuracy of compliance and enforcement data entered into AFS (soon to be ICIS-Air) needs improvement. Data discrepancies were identified in all of the files reviewed. EPA recommends ADEQ document efforts to identify and address the causes of inaccurate Minimum Data Requirement (MDR) reporting. EPA will monitor progress through the annual Data Metrics Analysis (DMA) and other periodic data reviews.

Most Significant RCRA Subtitle C Program Issues

- All ADEQ formal enforcement actions are managed through the State Attorney General's Office. To address the inability to issue administrative orders, ADEQ has developed innovative compliance assistance and enforcement programs that achieves a high level of compliance with the regulated community. The ADEQ RCRA program consistently achieved timely and appropriate enforcement actions that returned violating facilities to compliance.

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

TABLE OF CONTENTS

Clean Water Act Report	Pages 5 - 26
Clean Water Act Report	Pages 27 – 45
RCRA Report	Pages 46 - 58

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Introduction

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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

- Inspection coverage at major and minor facilities as well as other programs meets or exceeds commitments in the state specific CMS plan. (CWA Finding 2-1)
- Inspection reports meet or exceed EPA's expectations for report quality, accuracy of compliance determinations, and timeliness of completion. (CWA Findings 2-2 & 3-2)
- Penalty calculation and collection is well documented. (CWA Finding 5-1)

Priority Issues to Address

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

- Completeness and accuracy of CWA NPDES data reported in ICIS
- Some CWA informal enforcement actions did not return facilities to compliance.
- Timely and appropriate CWA enforcement

Most Significant CWA-NPDES Program Issues²

- Completeness and accuracy of data on permit limits, discharge data, inspections, violations, and enforcement actions reported in ICIS is unreliable. (CWA Finding 1-1)
- Single event violations (SEVs) for major facilities are not reported or entered into ICIS as required by EPA. (CWA Finding 3-1)
- Significant non-compliance at major facilities is above the national average. (CWA Finding 3-3)
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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 understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

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

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

II. SRF Review Process

Review period: 2013

Key dates:

CWA: On-Site File Review conducted July 8 – 11, 2014

State and EPA Key Contacts for Review:

CWA EPA Contacts: Ken Greenberg, Susanne Perkins, Liliana Christophe

CWA State Contact: Mindi Cross

III. SRF Findings

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

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

There are three categories of findings:

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

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

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

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

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

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

Clean Water Act Findings

CWA Element 1 — Data

Metrics 1b and 2b: Completeness and accuracy of permit limit and discharge data and inspections and enforcement action data in EPA’s national database.

Finding 1-1	Area for State Improvement
<p>Summary</p>	<p>Throughout the review year, FY2013, ADEQ failed to input any NPDES compliance and enforcement data to EPA’s Integrated Compliance Information System (ICIS), the agency’s national compliance tracking database. As a result, the state did not meet EPA’s expectations for completeness and accuracy of compliance and enforcement data in EPA’s national database. In addition, Arizona NPDES data available to the public on EPA’s ECHO database was incomplete and inaccurate.</p> <p>By the time of this SRF review, ADEQ had begun entering some NPDES compliance and enforcement data in ICIS. For purposes of this review, EPA evaluated the completeness and accuracy of data that ADEQ had input to ICIS as of June 16, 2014. Nevertheless, ADEQ still fell short of EPA’s expectations for coding major facility permit limits and entering Discharge Monitoring Report (DMR) data in ICIS. In addition, EPA found only 52.4% of files reviewed had compliance and enforcement information accurately reported to EPA’s ICIS database. Data accuracy in files reviewed is well below the national goal of 100%.</p> <p>Arizona’s longstanding issues with data flow into ICIS have affected the rating of this finding. Data entry into the appropriate EPA database is a recurring issue from previous reviews of Arizona’s NPDES program.</p>
<p>Explanation</p>	<p>Metrics 1b1 and 1b2 measure the state’s rate of entering permit limits and DMR data into ICIS.</p> <p>Arizona entered 89.5% of permit limits into ICIS for major facilities, falling below both EPA’s national goal of $\geq 95\%$ and the national average of 98.4%.</p> <p>Arizona entered 89.2% of DMR data into ICIS, falling below both EPA’s national goal of $\geq 95\%$ and the national average of 97.2%.</p> <p>Under Metric 2b, EPA compared inspection reports and enforcement actions found in selected files to determine if the inspections, inspection findings, and enforcement actions were accurately entered into ICIS. The analysis was limited to data elements mandated in EPA’s ICIS data</p>

management policies. States are not required to enter inspections or enforcement actions for certain classes of facilities.

EPA found 11 of the 21 files reviewed (52.4%) had all required information (facility location, inspection, violation, and enforcement action information) accurately entered into ICIS. Missing DMRs and unreported enforcement actions were the most frequently cited data accuracy issues. Arizona's accuracy rate of 52.4% is well below the national goal of 100%.

The results for Metrics 1b1, 1b2, and 2b are skewed by Arizona's longstanding NPDES data flow issues into ICIS. Arizona's NPDES data stopped flowing into ICIS in November 2012. Arizona began work on resolving the data flow problems and committed to a June 30, 2013 project completion date. By September 30, 2013, the end of federal FY13, NPDES data was still not flowing nor was it flowing by the February 19, 2014 data freeze deadline for this review. Data finally began flowing in the spring of 2014. EPA manually froze the FY13 data in ICIS on June 16, 2014 in order to prepare for the site review in early July 2014. Despite Arizona's assurance that it had loaded 99.5% of the missing data to ICIS, EPA found, and ADEQ confirmed, that the data in ICIS still had many errors. As of September 30, 2014, the data is still not flowing reliably at 100% into ICIS. DMRs, some permit limit sets, and a few general bugs are causing most of the problems. Although the results for Metrics 1b1 and 1b2 appear to be nearly acceptable, if EPA had used the February 2014 frozen FY13 data, the results for both metrics would have been 0%. Although Metric 2b is already unacceptable at 52.4%, if EPA had used the February 2014 frozen FY13 data, the results for this metric would have been 0% as well.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	1b1 Permit limit rate for major facilities	≥95%	98.4%	68	76	89.5%
1b2 DMR entry rate for major facilities	≥95%	97.2%	2153	2414	89.2%	
2b Files reviewed where data are accurately reflected in the national data system	100%	N/A	11	21	52.4%	

State response

During the review year, FY2013, ADEQ acknowledges the issues with data flow into the ICIS database. ADEQ has dedicated staff and resources to correct these issues and appreciates EPA's technical assistance to our staff and funding additional assistance from Windsor. ADEQ has made significant progress in flowing data into ICIS.

As of January 16, 2015, ADEQ has submitted approximately 93% of discharge monitoring reports (DMRs) to ICIS for major and minor

	<p>facilities. Historically, ADEQ did not send DMRs for minor facilities during the PCS era, so data gaps are to be expected in submissions for minors in the early part of our analysis. Additionally, ADEQ is working to address data errors that are causing DMRs and permit data to be rejected by ICIS.</p> <p>ADEQ had been flowing informal and formal enforcement actions into ICIS. However, due to the EPA’s recent update to the ICIS node, the enforcement action data has stopped flowing. While ADEQ is currently working to update our node, this data is currently collected in a temporary data table. All the saved data will be submitted to ICIS once the update is completed.</p>
<p>Recommendation</p>	<ul style="list-style-type: none"> • By August 15, 2015, ADEQ will ensure all relevant NPDES permit, compliance and enforcement information, including inspections, enforcement actions, and violations, is entered and regularly flowing into ICIS in accordance with EPA’s data entry requirements. • EPA and ADEQ will include this as a standing agenda topic during regular meetings to track progress and ensure data is being entered and ADEQ is meeting its CWA section 106 grant workplan commitments for ICIS-NPDES data management.

CWA Element 2 — Inspections
Metrics 4a, 5a, and 5b: Inspection coverage compared to state workplan commitments.

<p>Finding 2-1</p>	<p>Meets or Exceeds Expectations</p>
<p>Summary</p>	<p>Arizona met or exceeded inspection commitments in its Clean Water Act Section 106 grant workplan.</p>
<p>Explanation</p>	<p>Metrics 4a, 5a, and 5b measure the number of inspections completed by the state in the State Fiscal Year 2013 compared to the commitments in Arizona’s Clean Water Act Section 106 grant workplan. EPA Region 9 established workplan inspection commitments for Arizona consistent with the inspection frequency goals established in EPA’s 2007 Compliance Monitoring Strategy (CMS). Arizona inspected 35 major facilities and 18</p>

minor facilities during the review year, meeting the CMS-based workplan commitments of 35 major and 18 minor inspections.

Arizona met all of its CMS-based workplan commitments for other inspections, completing 3 pretreatment compliance inspections; 1 pretreatment compliance audit, 1 pretreatment significant industrial user inspection, 78 industrial and 104 construction stormwater inspections; 2 municipal stormwater program inspections; and 9 concentrated animal feeding operation inspections.

For metric 4a10, the CMS-based workplan includes both permitted and unpermitted CAFOs in its commitments. Arizona inspects its two permitted CAFOs on a five year cycle as required. ADEQ has inspected all of its CAFOs (permitted and unpermitted) over the last five years.

Relevant metrics	Metric ID Number and Description	State CMS	Natl Avg	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits	100%	N/A	4	4	100%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100%	N/A	1	1	100%	
4a7 Phase I & II MS4 audits or inspections	100%	N/A	2	2	100%	
4a8 Industrial stormwater inspections	100%	N/A	78	60	130%	
4a9 Phase I and II stormwater construction inspections	100%	N/A	104	60	173%	
4a10 Medium and large NPDES CAFO inspections	100%	N/A	9	4	225%	
5a1 Inspection coverage of NPDES majors	100%	54.1%	35	35	100%	
5b1 Inspection coverage of NPDES non-majors with individual permits	100%	25.9%	18	18	100%	

State response

Recommendation

CWA Element 2 — Inspections
Metrics 6a and 6b: Quality and timeliness of inspection reports.

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

Summary	Arizona’s inspection reports meet or exceed EPA’s expectations for report quality and timeliness of completion.					
Explanation	<p>Metric 6a assesses the quality of inspection reports, in particular, whether the inspection reports provide sufficient documentation to determine the compliance status of inspected facilities. EPA reviewed 26 inspection reports; 25 were found complete and sufficient to determine compliance in accordance with the 2004 NPDES Compliance Inspection Manual guidelines.</p> <p>Metric 6b measures the state’s timeliness in completing inspection reports within the state’s recommended deadline of 30 working days for compliance evaluation inspection reports. EPA reviewed 25 inspection reports; 24 were found to be completed within the state’s guidelines. One inspection report counted under Metric 6a was for an MS4 audit, which does not have a recommended deadline, so that report was not considered in Metric 6b. ADEQ is considering establishing a deadline for completion of its MS4 inspection reports.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance at the facility	100%	N/A	25	26	96.2%
	6b Inspection reports completed within prescribed timeframe	100%	N/A	24	25	96%
State response						
Recommendation						

CWA Element 3 — Violations
Metrics 7a1, 8b and 8c: Tracking of single event violations.

Finding 3-1	Area for State Improvement
Summary	Arizona is not entering single event violations (SEVs) in EPA’s ICIS database as required for major facilities. This is a recurring issue from previous reviews of Arizona’s NPDES program
Explanation	Metric 7a1 assesses whether single-event violations (SEVs) are reported and tracked in ICIS-NPDES. SEVs are violations that are determined by

means other than automated review of discharge monitoring reports and include violations such as spills and violations observed during field inspections. Arizona does not report single event violations in ICIS as required under EPA’s data management policy. Single event violations are a required data entry for major facilities as indicated in the December 28, 2007 EPA memorandum, *ICIS Addendum to the Appendix of the 1985 Permit Compliance System Statement* (p.9).

Although Arizona does not enter SEVs in EPA’s ICIS database, they have a robust system for tracking SEVs in the Inspection, Compliance and Enforcement (ICE) module of the state’s AZURITE database.

Metric 8b requires SEVs at major facilities to be accurately identified as significant noncompliance (SNC) or non-SNC. Arizona does not record SEVs in ICIS NPDES and, therefore does not flag SEVs as SNC in ICIS. EPA has established automated and discretionary criteria for flagging discharger violations as SNC. Arizona relies on the automated DMR-based criteria to flag effluent limits and reporting violations as SNC, but does not normally make discretionary labeling of SEV violations as SNC.

Metric 8c requires timely reporting of SEVs identified as SNC at major facilities. Since Arizona does not record SEVs in ICIS NPDES, the state cannot meet the requirements of this metric.

For Metrics 8b and 8c, EPA reviewed 12 major facility files. None of the files had any violations noted as SEV in which to evaluate metrics 8b and 8c.

A similar finding was found in Round 2 of the SRF in that ADEQ was not entering SEVs into PCS. As it does currently, ADEQ was using its AZURITE database to identify and track violations

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a1 Number of major facilities with single event violations	N/A	N/A	N/A	N/A	0
8b Single-event violations accurately identified as SNC or non-SNC	100%	N/A	0	0	0%	
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%	N/A	0	0	0%	
State response	ADEQ acknowledges that SEVs are not being flowed into ICIS. ADEQ does track SEVs in our Azurite database.					

Recommendation	EPA and ADEQ agree to meet within one year to discuss options for the transfer of SEV data from the state’s ICE database to ICIS, including possible funding for additional IT resources.
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CWA Element 3 — Violations
Metric 7e: Accuracy of compliance determinations

Finding 3-2	Meets or Exceeds Expectations
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Summary	Inspection reports generally provide sufficient information to ascertain compliance determinations on violations found during inspections.
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Explanation	Metric 7e measures the percent of inspection reports that have accurate compliance determinations. EPA reviewed 26 inspection reports and found that 23 of the reports (88.5%) led to accurate compliance determinations which is within the acceptable range of the national goal of 100%. Generally, ADEQ makes compliance determinations in its inspection reports. (Some states make compliance determinations in a separate document or memo to the file.) The reviewers also found that ADEQ’s inspection report compliance determinations were carried over as a violation record in its ICE database and were often found reflected in ADEQ enforcement actions such as a Notice of Violation.
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Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7e Inspection reports reviewed that led to an accurate compliance determination	100%	N/A	23	26	88.5%

State response	
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Recommendation	
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CWA Element 3 — Violations
Metrics 7d1 and 8a2: Major facilities in significant non-compliance

Finding 3-3	Area for State Attention
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Summary	The rate of significant noncompliance at major facilities in Arizona is higher than the national average.
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Explanation	<p>Metric 7d1 measures the percent of major facilities in non-compliance reported in ICIS. Based on data in ICIS, noncompliance at major facilities in Arizona was 36.61% during the review year. Arizona’s rate of noncompliance is lower than the national average noncompliance rate of 62.6%. Note that, because of Arizona’s data management problems, the accuracy of ICIS data used for this metric is uncertain.</p> <p>Metric 8a2 measures the percentage of major facilities in significant noncompliance. Twenty-one of the 71 major facilities in Arizona were in significant noncompliance for one or more quarters during the review year. The rate of significant noncompliance in Arizona (29.57%) is higher than the national average of 24.3%. Because Arizona’s ICIS data was incomplete and inaccurate, EPA and ADEQ made the SNC determinations for this metric based on a combination of ICIS data (where reliable) and discharge data in ADEQ’s AZURITE database.</p>																							
Relevant metrics	<table border="1"> <thead> <tr> <th data-bbox="477 808 1013 877">Metric ID Number and Description</th> <th data-bbox="1013 808 1094 877">Natl Goal</th> <th data-bbox="1094 808 1198 877">Natl Avg</th> <th data-bbox="1198 808 1252 877">State N</th> <th data-bbox="1252 808 1305 877">State D</th> <th data-bbox="1305 808 1446 877">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="477 877 1013 926">7d1 Major facilities in noncompliance</td> <td data-bbox="1013 877 1094 926">N/A</td> <td data-bbox="1094 877 1198 926">62.6%</td> <td data-bbox="1198 877 1252 926">26</td> <td data-bbox="1252 877 1305 926">71</td> <td data-bbox="1305 877 1446 926">36.61%</td> </tr> <tr> <td data-bbox="477 926 1013 974">8a2 Percentage of major facilities in SNC</td> <td data-bbox="1013 926 1094 974">N/A</td> <td data-bbox="1094 926 1198 974">24.3%</td> <td data-bbox="1198 926 1252 974">21</td> <td data-bbox="1252 926 1305 974">71</td> <td data-bbox="1305 926 1446 974">29.57%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7d1 Major facilities in noncompliance	N/A	62.6%	26	71	36.61%	8a2 Percentage of major facilities in SNC	N/A	24.3%	21	71	29.57%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																			
7d1 Major facilities in noncompliance	N/A	62.6%	26	71	36.61%																			
8a2 Percentage of major facilities in SNC	N/A	24.3%	21	71	29.57%																			
State response	<p>ADEQ was unable to complete the migration of our data into ICIS prior to PCS being taken out of production on November 29, 2012. During the same time period, ADEQ’s state database was not calculating violations properly. Without electronic data management capabilities, ADEQ was reviewing monitoring and reporting data on a case-by-case basis as part of our inspection process.</p> <p>Currently, ADEQ has resolved the majority of issues associated with our state database. With this information and the information that is in ICIS, ADEQ has developed and implemented a Monitoring and Reporting Standard Operating Procedure (SOP) to conduct routine compliance reviews of the monitoring reporting violations and follow-up with the appropriate enforcement actions.</p>																							
Recommendation	<p>ADEQ should be able to reduce the incidence of SNC by taking timely formal enforcement as SNC violations arise. See recommendation for Finding 4-2.</p>																							

CWA Element 4 — Enforcement

Background Information	
Summary	This finding highlights the number and type of NPDES enforcement actions taken by Arizona DEQ during the review year. The finding is for information and not subject to a rating under EPA’s SRF protocols.
Explanation	<p>During State fiscal year 2013 (July 1, 2012 to June 30, 2013), Arizona DEQ issued the following enforcement actions in response to NPDES violations:</p> <ul style="list-style-type: none"> 70 Informal Actions (Notices of Opportunity to Correct (NOC) or Notices of Violation (NOV)) 4 Compliance Orders 1 Penalty Actions <p>ADEQ’s NOC and NOV are informal administrative enforcement actions typically used by ADEQ as its initial response to a violation. NOCs and NOVs do not create independently enforceable obligations on respondents. Compliance orders are formal administrative enforcement actions that impose independently enforceable obligations on the respondent to take actions to return to compliance. In accordance with its Compliance and Enforcement Handbook, ADEQ normally will attempt to negotiate an order on consent with respondents, but has authority to issue unilateral compliance orders if needed. ADEQ does not have authority to issue administrative penalties but can take judicial actions to impose penalties and injunctive relief obligations.</p> <p>As can be seen from the FY13 data, ADEQ relies primarily on informal enforcement actions to address NPDES violations. Findings 4-1, 4-2 and 5-1 evaluate ADEQ’s use of these enforcement tools against EPA’s SRF review criteria.</p>

CWA Element 4 — Enforcement
Metric 9a: Enforcement actions promoting return to compliance

Finding 4-1	Area for State Improvement												
Summary	Although most enforcement actions reviewed promote return to compliance, about 20% of the reviewed enforcement actions did not result in a return to compliance.												
Explanation	<p>Metric 9a measures the percent of enforcement responses that return or will return the source to compliance. EPA found 21 of 26 enforcement actions reviewed promote return to compliance compared to the national goal of 100%. The 26 enforcement actions reviewed in selected ADEQ files included 17 informal actions (NOC or NOV), 7 compliance orders and 2 judicial actions.</p> <p>To evaluate the informal actions, EPA determined if the file had a record of the discharger timely returning to compliance in response to ADEQ’s NOC or NOV. For compliance orders or judicial actions, EPA assumed that the action promoted a return to compliance if the enforcement action imposed enforceable injunctive relief obligations or if the file noted an actual return to compliance.</p> <p>In four cases (1 NOC and 3 NOV’s), ADEQ closed the informal enforcement action prior to the discharger returning to full compliance. ADEQ had issued these four informal actions to address reporting violations at three different facilities. (One facility received two NOV’s.) In a fifth case, ADEQ issued an informal enforcement action (NOV) against a facility with SNC level violations. The facility was in SNC for all four quarters of FY13 and the SNC continued after ADEQ issued the NOV. As of the date of the SRF review, ADEQ had not escalated its enforcement beyond an NOV.</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>9a Percentage of enforcement responses that return or will return source in violation to compliance</td> <td>100%</td> <td>N/A</td> <td>21</td> <td>26</td> <td>81%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	9a Percentage of enforcement responses that return or will return source in violation to compliance	100%	N/A	21	26	81%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%	N/A	21	26	81%								
State response	Compliance is a core mission of ADEQ and there are two performance measures related to facility compliance in ADEQ’s Strategic Plan. Our key compliance goals are to reduce the amount of time that a facility is out of compliance by 50% over five years; and to increase the number of facilities that are in compliance at the time of inspection by 50% over five years. It												

should be noted that ADEQ does not consider issuance of a formal action to mean compliance for the purposes of these measures. Our focus is for facilities to be in actual compliance with their regulatory requirements. While ADEQ is pleased that over 80% of our enforcement actions resulted in compliance, we are committed to continuous improvement.

ADEQ acknowledges that informal enforcement actions were not always escalated in a timely manner when compliance deadlines were missed. To address these concerns, ADEQ has made changes to our compliance and enforcement processes:

- As of January 2013, ADEQ streamlined our escalated enforcement approach so that issuance of a consent order is pre-approved by management if an entity fails to comply with a NOV.
- The Water Quality Compliance Section has developed and implemented a Monitoring and Reporting SOP to conduct routine review of monitoring and reporting data. By identifying and responding to violations in a timely manner, ADEQ will continue to reduce the time that a facility remains out of compliance and therefore reduce the number of facilities in SNC.

Recommendation

EPA acknowledges ADEQ is unable to commit to adopting and implementing revisions to its enforcement response procedures to provide for increased automatic formal enforcement against facilities in SNC. With that acknowledgement and by July 31, 2015,

- ADEQ will commit to follow its revised Compliance and Enforcement Procedures and Monitoring and Reporting procedures using a combination of formal and informal actions.
- ADEQ will escalate NOVs to a formal enforcement action following the timeframes outlined in its revised Compliance and Enforcement Procedures.
- EPA will be prepared to take enforcement against facilities in SNC or with other violations if ADEQ is not able to take timely and appropriate formal enforcement, or if ADEQ requests assistance, and in other circumstances EPA deems appropriate. The exact form and amount of EPA's assistance will be determined as EPA monitors ADEQ progress in meeting its yearly workplan goals.

CWA Element 4 — Enforcement
Metrics 10a and 10b: Timely and appropriate enforcement actions

Finding 4-2	Area for State Improvement
<p>Summary</p>	<p>Enforcement actions taken at major and non-major facilities are not timely or appropriate. This is a recurring issue from previous reviews of Arizona's NPDES program.</p>
	<p>For this finding, EPA used two metrics (metrics 10a and 10b) to evaluate whether ADEQ is addressing violations with appropriate enforcement actions and whether ADEQ's enforcement responses were taken in a timely manner.</p> <p>Metric 10a was used to assess ADEQ response to SNC level violations at major facilities. EPA examined ADEQ's enforcement response to each of the 21 major facilities that had SNC level violations during federal FY2013. EPA policy dictates that SNC level violations must be addressed with a formal enforcement action (administrative compliance order or judicial action) issued within 5 ½ months of the end of the quarter when the SNC level violations initially occurred.</p> <p>Metric 10b was used to assess ADEQ's enforcement response to any type of violation (SNC or lower level violations) at any type of facility (major, minor or general permit discharger). EPA's evaluation of metric 10b was based on review of 27 files selected to represent a cross section of facilities operating in Arizona. EPA expectations for enforcement response are provided in its Enforcement Management System which includes the strict expectations cited above for enforcement response to major facility SNC violations as well as the somewhat more subjective guidelines for responses to non-SNC violations.</p> <p>For metric 10a, EPA and ADEQ reviewed ICIS data (where reliable) and discharge data in ADEQ's AZURITE database to determine that 21 major facilities had SNC level violations in federal FY2013. ADEQ reported that they took no enforcement against 8 of these facilities and used informal enforcement actions (NOC or NOV) to address the violations at 9 of the facilities. ADEQ issued formal enforcement actions (administrative compliance orders on consent) against 4 of the SNC facilities. However, 3 of these consent orders were not timely as they were issued more than 5 ½ months following the onset of SNC violations. (ADEQ has noted the difficulty of reaching agreement on a consent order within EPA's timeliness deadline.) In summary, ADEQ issued a timely and appropriate enforcement action against 1 of the 21 facilities with SNC level violations in federal FY2013.</p>

EPA policy states that no more than 2% of the total majors in the state should be in SNC without an appropriate enforcement action. It appears that Arizona had 28% of its major dischargers (20 of 71) in SNC during FY2013 without a timely and appropriate enforcement response.

For metric 10b, EPA reviewed 27 files that included documentation that a violation had occurred at the facility. These files included a mix of major, minor and general permitted facilities. Several of the files were major facilities with SNC violations that were also considered under metric 10a. EPA found 15 instances where ADEQ’s enforcement response was judged to be appropriate for the nature of the violation. ADEQ’s enforcement actions included 1 warning letter, 2 NOCs, 8 NOVs, 2 compliance orders and 2 judicial actions. On the other hand, EPA found 11 instances where ADEQ’s enforcement response was not timely and appropriate for the nature of the violation. These included 2 NOVs and 5 compliance orders where EPA found the action to be appropriate, but late. In addition, EPA found 4 instances where ADEQ either took no enforcement or an informal action where EPA thought a formal action was warranted. In summary, EPA found that ADEQ took appropriate action in 15 of the 27 files reviewed (55.6%).

This same finding was identified in Rounds 1 and 2 of the SRF. ADEQ did not implement EPA’s Round 1 and Round 2 recommendations to issue formal enforcement against facilities with SNC level violations. ADEQ’s Compliance and Enforcement Handbook calls for informal enforcement actions (NOC or NOV) as the initial response to most violations. As a result, ADEQ issues few formal enforcement actions.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	10a1 Major facilities with timely action as appropriate				1	21
10b Enforcement responses reviewed that address violations in an appropriate manner		100%	N/A	15	27	55.6%
Choose an item.						

State response As discussed in Finding 4-1, facility compliance is a key to ADEQ’s success and we will continue to work on improving our processes. However, ADEQ is unable to commit to adopting and implementing revisions to its enforcement response procedures to provide for increased automatic formal enforcement against facilities in SNC. ADEQ will commit to taking more timely enforcement actions using a combination of formal and informal enforcement actions following our Compliance and Enforcement Procedures.

Recommendation	<p>EPA acknowledges ADEQ is unable to commit to adopting and implementing revisions to its enforcement response procedures to provide for increased automatic formal enforcement against facilities in SNC. With that acknowledgement and by July 31, 2015,</p> <ul style="list-style-type: none"> • ADEQ will commit to follow its revised Compliance and Enforcement Procedures and Monitoring and Reporting procedures using a combination of formal and informal actions. • ADEQ will escalate NOV's to a formal enforcement action following the timeframes outlined in the revised Compliance and Enforcement Procedures. • EPA will be prepared to take enforcement against facilities in SNC or with other violations if ADEQ is not able to take timely and appropriate formal enforcement, or if ADEQ requests assistance, and in other circumstances EPA deems appropriate. The exact form and amount of EPA's assistance will be determined as EPA monitors ADEQ progress in meeting its yearly workplan goals.
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CWA Element 5 — Penalties
Metrics 11a, 12, and 12b: Penalty calculation and collection

Finding 5-1	Meets or Exceeds Expectations																	
Summary	ADEQ properly considered economic benefit and gravity in its penalty calculation and documented collection of the penalty payment.																	
Explanation	<p>Metric 11a assesses the states method for calculating penalties and whether it properly documents the economic benefit and gravity components in its penalty calculations. Metric 12a assesses whether the state documents the rationale for changing penalty amounts when the final value is less than the initial calculated value. Metric 12b assesses whether the state documents collection of penalty payments.</p> <p>EPA's findings for metrics 11a, 12a and 12b are based on review of the single penalty action taken by ADEQ during the review year. In the file for its penalty action, ADEQ properly documented consideration of economic benefit and gravity in its penalty calculation (metric 11a) and had a copy of the electronic funds transfer documenting receipt of the penalty payment (metric 12b). Metric 12a does not apply for this action as the penalty payment was not less than ADEQ's initial penalty calculation.</p>																	
Relevant metrics	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #e0e0e0;"> <th style="text-align: left;">Metric ID Number and Description</th> <th style="text-align: center;">Natl Goal</th> <th style="text-align: center;">Natl Avg</th> <th style="text-align: center;">State N</th> <th style="text-align: center;">State D</th> <th style="text-align: center;">State % or #</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #						
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													

	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%	N/A	1	1	100%
	12a Documentation of the difference between initial and final penalty and rationale	100%	N/A			N/A
	12b Penalties collected	100%	N/A	1	1	100%
State response						
Recommendation						

STATE REVIEW FRAMEWORK

Arizona Department of Environmental Quality

**Clean Air Act
Implementation in Federal Fiscal Year 2013**

**U.S. Environmental Protection Agency
Region 9**

**Final Report
July 29, 2015**

Executive Summary

Introduction

The U.S. Environmental Protection Agency (EPA) Region 9 Air & TRI Enforcement Office conducted a State Review Framework (SRF) enforcement program oversight review of the Arizona Department of Environmental Quality (ADEQ) in 2014.

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 the EPA ECHO web site.

Areas of Strong Performance

- ADEQ evaluates CMS sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The ADEQ inspection reports which contained more narrative were well done.

Priority Issues to Address

- Data reported into AFS is missing or inaccurate.
- High Priority Violations (HPVs) are not being identified, and therefore are not reported in AFS, nor enforced in a timely and appropriate manner.

Most Significant CAA Stationary Source Program Issues³

- Lack of penalty actions resulting from informal enforcement actions (Notices of Violation or Compliance.)
- Non-adherence to EPA's 1998 HPV policy regarding identifying, reporting, and acting on high priority violations.
- The accuracy of compliance and enforcement data entered into AFS (soon to be ICIS-Air) needs improvement. Data discrepancies were identified in all of the files reviewed. EPA recommends ADEQ document efforts to identify and address the causes of inaccurate Minimum Data Requirement (MDR) reporting. EPA will monitor progress through the annual Data Metrics Analysis (DMA) and other periodic data reviews.

³ EPA's "National Strategy for Improving Oversight of State Enforcement Performance" identifies the following as significant recurrent issues: "Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors."

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/Evaluations** — meeting inspection/evaluation and coverage commitments, inspection (compliance monitoring) 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/local 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/local programs.

Each state/local programs are reviewed once every four years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2016.

II. SRF Review Process

Review period: FY 2013

Key dates:

- Kickoff letter sent to ADEQ: April 16, 2014
- Kickoff meeting conducted: June 9, 2014
- CAA data metric analysis and file selection list sent to ADEQ: May 8, 2014
- On-site CAA file review: June 9, 2014 – June 11, 2014
- Draft report sent to ADEQ: January 5, 2015
- Report finalized: July 29, 2015

State and EPA key contacts for review:

ADEQ

- Timothy Franquist, Manager Air Quality Compliance Section at the time of the review
- Marina Mejia, Air Quality Supervisor
- Pam Nicola, Air Quality Supervisor at the time of the review

EPA Region 9

- Matt Salazar, Manager, Air & TRI Office, Enforcement Division
- Andrew Chew, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Debbie Lowe-Liang, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Jennifer Sui, AFS Coordinator, Information Management Section, Enforcement Division
- Robert Lischinsky, Office of Compliance, Office of Enforcement and Compliance Assistance

III. SRF Findings

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

- Annual data metric reviews conducted since the previous state/local SRF review
- Follow-up conversations with state/local 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/local performs above national program expectations.

Area for State/Local Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state/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/Local 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/Local 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/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.

Clean Air Act Findings

Element 1 — Data	
Finding 1-1	Area of State Improvement
Summary	The File Review indicated that information reported into AFS was not consistent with the information found in the files reviewed.
Explanation	<p>Review Metric 2b evaluates the completeness and accuracy of reported MDRs in AFS. Timeliness is measured using the date the activity is achieved and the date it is reported to AFS. While the national goal for accurately reported data in AFS is 100%, only 14.3% of reviewed data in the files was accurately reported. Inaccuracies were related to facility information (incorrect names, addresses, contact phone numbers, CMS information, pollutants, operating status, etc.) and missing or inaccurate activity data (e.g., incorrect FCE dates entered; stack test not reported to AFS). Incorrect data in ICIS-Air (AFS) potentially hinders targeting efforts and results in inaccurate information being released to the public.</p> <p>Metric 3a2 measures whether HPV determinations are entered into AFS in a timely manner (within 60 days) in accordance with the AFS Information Collection Request (AFS ICR) in place during FY 2013. The metric indicates that no HPV determination was reported timely as no HPVs were entered. EPA policy requires all HPV determinations to be reported to AFS within 60 days.</p> <p>Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual Compliance Certifications). Out of 153 individual actions, 130 were reported within 60 days (85%). This is below the goal of 100%.</p> <p>Metric 3b2 evaluates whether stack test dates and results are reported within 120 days of the stack test. The national goal for reporting results of stack tests is to report 100% of all stack tests within 120 days. Out of 66 stack tests, only 34 were reported within 120 days (51.5%), below the national average and the national goal.</p> <p>Metric 3b3 measures timeliness for reporting enforcement-related MDRs within 60 days of the action. The actions reported by ADEQ were Notices of Violations and Administrative Orders. Out of 14 enforcement MDR reporting, only 8 were reported within 120 days (57.1%).</p>

Metrics 7b1, 7b2 and 7b3 use indicators of an alleged violation to measure the rate at which violations are accurately reported into AFS. Violations are reported by changing the compliance status of the relevant air program pollutant in AFS. Metrics 7b1 and 7b3 are “goal” indicators with a goal of 100% of violations reported.

Metric 7b1 indicates that for all 7 NOV’s issued, ADEQ did not change the compliance status to either “in violation” or “meeting schedule.”

Similarly, for HPV’s, Metric 7b3 indicates that for all HPV’s identified at major sources in FY2011, ADEQ did not change the compliance status to either “in violation” or “meeting schedule.” ADEQ did not adhere to the 1998 HPV Policy with regard to identifying HPV’s (see Finding 3-1); because no HPV’s were identified, none were reported in AFS. Meeting the recommendation under Finding 3-1 should rectify this concern.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b- Accurate MDR Data in AFS	100%		4	28	14.3%
3a2- Untimely Entry of HPV’s	0				NA(no HPV’s)	
3b1 – Timely Reporting of Compliance Monitoring MDRs	100%	80.9%	130	153	85.0%	
3b2 – Timely Reporting of Stack Test Dates and Results	100%	75.4%	34	66	51.5%	
3b3 – Timely Reporting of Enforcement MDRs	100%	68.7%	8	14	57.1%	
7b1 – Violations Reported Per Informal Actions	100%	59.5%	0	7	0%	
7b3 – Violations Reported Per HPV Identified	100%	57.5%	0	0	N/A	

State Response	<p>ADEQ understands that inaccurate data appears to have been reported to AFS and agrees that inaccurate data is undesirable and does not provide for the greatest level of transparency. EPA's report indicates that only 14.3% of reviewed data was accurately reported. ADEQ is committed to correcting any inaccuracies. To assist in the corrections, ADEQ requests that EPA provide the AFS facility list that it reviewed. In addition, ADEQ requests that EPA provide the list of reviewed data and any inaccuracies that were identified to assist in the timeliness of the required updates.</p> <p>ADEQ agrees that HPVs were not reported timely as no HPVs had been entered at the time of the SRF field work. During the exit debrief on June 11, 2014, EPA brought this concern to ADEQ's attention. Immediately after the issue was brought to ADEQ's attention, a concerted effort was made to provide EPA with a reconciliation document that identified past HPVs for the review period. This spreadsheet was sent by e-mail to Mr. Matt Salazar with EPA Region 9 by Mr. Tim Franquist of ADEQ on June 16, 2014. EPA acknowledged receipt of the e-mail and ADEQ has yet to hear whether the information reported meets EPA's expectations. Moving forward, ADEQ intends to ensure that HPVs are appropriately identified by instituting a new training course for all Air Quality Division compliance staff. A copy of the final training material will be provided to EPA at the time it is completed on or before March 30, 2015. Although all Air Quality Division staff has been provided with a copy of the 1998 HPV policy, given the update to the policy in September 2014 and the need to implement the training program, ADEQ anticipates the need for another reconciliation that will be provided on March 30, 2015.</p> <p>ADEQ agrees that timely reporting is important. Since the exit debrief on June 11, 2014, ADEQ has assigned a staff member to direct enter data into EPA's ICIS-Air. ADEQ understands that as of September 2014, the timeliness of reporting to ICIS-Air increased to 99%. Additionally, ADEQ continues to make progress on the HPV training course. With training and direct entry of data, ADEQ expects that all of the issues related to the timeliness portion of this finding have been resolved.</p>
Recommendation	<ul style="list-style-type: none">• By August 31, 2015, EPA will provide ADEQ with the AFS facility list and identified data inaccuracies. By October 15, 2015, ADEQ should provide EPA with corrections to both the AFS facility list and all data inaccuracies.• By August 31, 2015, ADEQ will provide EPA with a final HPV identification training course for all air quality compliance staff. By December 31, 2015, ADEQ will provide EPA with documentation demonstrating that the training course has been implemented, the number of compliance staff trained, and data regarding the number of HPVs identified after the training course is complete.• By August 31, 2015, ADEQ will provide EPA with a HPV reconciliation document that ensures that HPVs between June 12, 2014 and August 15, 2015 have been properly identified.• By December 31, 2015, ADEQ will provide EPA with a HPV reconciliation document that ensures that HPVs between August 31 2015 and December 31, 2015 have been properly identified.

Element 2 — Inspections/Evaluations

Finding 2-1	Meets Expectations																								
Summary	ADEQ met the negotiated frequency for compliance evaluations of CMS sources.																								
Explanation	<p>This Element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. ADEQ met the national goal for the relevant metrics.</p> <p>ADEQ met the negotiated frequency for conducting FCEs of major and SM80s. ADEQ ensured each major source was evaluated with an FCE once every 2 years and each SM80 once every 5 years.</p> <p>Note: The 100% achievement rate noted in the table below differs from what would be derived using the “frozen data set”, because upon review of the reported frozen data we found the state had reported a higher, inaccurate universe of facilities than actually existed. The FCEs do not match all of the Title V and SM80 facilities identified in the 2010 ADEQ CMS policy (likely due to facility closures, openings, and facilities that changed names). Our review confirmed a universe of 56 majors (and one SM80), versus 93 reported in the frozen data set. ADEQ did 57 FCE inspections in FYs 12 and 13. ADEQ should revisit the CMS plan on a regular basis and update for accuracy.</p> <p>EPA commends ADEQ for full compliance evaluations at major facilities, an impressive accomplishment given the distance and complexities of the sources they regulate. ADEQ goes beyond the minimum frequencies, and inspects sources more often than EPA’s CMS policy indicates. If ADEQ believes their resources can be put to better use, EPA can approve alternative CMS plans that are not completely consistent with CMS recommended evaluation frequencies for local and state agencies to shift resources to other sources of concern, if needed.</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>5a – FCE Coverage Majors</td> <td>100%</td> <td>88.5</td> <td>29</td> <td>42</td> <td>69.0%</td> </tr> <tr> <td>5b – FCE Coverage SM80s</td> <td>100%</td> <td>93.3</td> <td>0</td> <td>1</td> <td>0%</td> </tr> <tr> <td>5c – FCE Coverage CMS non-SM80s</td> <td>N/A</td> <td></td> <td></td> <td></td> <td>N/A</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a – FCE Coverage Majors	100%	88.5	29	42	69.0%	5b – FCE Coverage SM80s	100%	93.3	0	1	0%	5c – FCE Coverage CMS non-SM80s	N/A				N/A
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
5a – FCE Coverage Majors	100%	88.5	29	42	69.0%																				
5b – FCE Coverage SM80s	100%	93.3	0	1	0%																				
5c – FCE Coverage CMS non-SM80s	N/A				N/A																				

	5d – FCE Coverage CMS Minors	N/A	N/A
State Response			
Recommendation	None required.		

Element 2 — Inspections/Evaluations

Finding 2-2	Meets Expectations
Summary	ADEQ nearly fully completed the required review for each Title V Annual Compliance Certification (ACC).
Explanation	<p>This Element evaluates whether the delegated agency has completed the required review for Title V Annual Compliance Certifications. While ADEQ has exceeded the national average, the goal for annual review of Title V certifications is 100%. The data indicates that 1 certification was not timely reviewed in FY 2012.</p> <p>Arizona has opted to require semi-annual certifications, rather than one annual certification. In lieu of submitting one annual Title V compliance certification, it is acceptable to submit two semi-annual certifications with each certification covering a 6 month period (i.e., January 1-June 30, and July 1-December 31), as long as the aggregation of the two reports adequately and accurately covers the annual compliance period. While EPA recommends the second semi-annual certification incorporate by reference the first semi-annual certification in order to formally satisfy the annual compliance obligation, such incorporation is not an absolute requirement if, again, the aggregation of the two reports provides complete annual coverage.</p> <p>EPA commends ADEQ for being significantly above the national average for reviewing Title V Annual Compliance Certifications. It would be ideal to report all of the certifications in ICIS-AIR.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5e – Review of TV ACCs	100%	81.3%	45	46	97.8%

State Response	
Recommendation	None required.

Element 2 — Inspections/Evaluations

Finding 2-3	Area for State Attention																		
Summary	Overall, the ADEQ compliance monitoring reports (CMRs) provided were adequate, but small additions of relevant information may make them more useful to inspectors.																		
Explanation	<p>EPA appreciates the “Lean” Transformation Process undertaken by ADEQ and the overhaul of state processes to obtain improvements and increase effectiveness. In addition, ADEQ has been able to overcome past financial issues and refill staff vacancies, as needed. Developing an updated ADEQ Handbook with an SOP is a positive outcome. EPA also appreciates the effort to promote efficiency by updating the field inspection reports.</p> <p>28 ADEQ compliance monitoring reports (aka Air Quality Field Inspection Reports) were reviewed under this Element. In reviewing the majority of the reports, it is unclear if all 7 CMR elements as discussed in the CMS policy were addressed in the reports. Report should include sufficient numerical detail to ensure the 7 CMR elements are adequately addressed. For example, including the production rate of a facility would enable one to determine if a previous or future source test is conducted at the appropriate production rate; including a significant control device parameter (i.e., incinerator temperature), would also be helpful information. Reviewers found 14 of 28 inspections were fully documented. In a few of those 14, when there were deficiencies noted during inspections, there was significant documentation of those deficiencies.</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>6a – Documentation of FCE Elements</td> <td>100%</td> <td></td> <td>14</td> <td>28</td> <td>50.0%</td> </tr> <tr> <td>6b – CMRs/Sufficient Documentation to Determine Compliance</td> <td>100%</td> <td></td> <td>14</td> <td>28</td> <td>50.0%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6a – Documentation of FCE Elements	100%		14	28	50.0%	6b – CMRs/Sufficient Documentation to Determine Compliance	100%		14	28	50.0%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
6a – Documentation of FCE Elements	100%		14	28	50.0%														
6b – CMRs/Sufficient Documentation to Determine Compliance	100%		14	28	50.0%														

State Response	<p>ADEQ agrees that numeric information associated with specific permit conditions should be added to the standardized inspection reports. While these records will only provide a “snapshot” of the actual operating conditions of the facility at the time of inspection, this will ensure that the field observations and inspection meet both quality and defensibility standards.</p> <ul style="list-style-type: none"> • By August 31, 2015, ADEQ will send EPA a list of all general types of standardized inspection reports that have been completed for CMS facilities. • By December 31, 2015, as appropriate, ADEQ will include additional numeric detail in all general types of standardized permit inspection reports that were listed as complete on August 31, 2015.
Recommendation	None required.
Element 3 — Violations	
Finding 3-1	Area for State/Local Improvement
Summary	<p>In general, compliance determinations are accurately made and promptly reported into AFS based on the CMRs reviewed and other compliance monitoring information. ADEQ falls below the national average for HPV discovery rate.</p>
Explanation	<p>Metric 7a is designed to evaluate the overall accuracy of compliance determinations and Metric 8c focuses on the accurate identification of violations that are determined to be HPVs.</p> <p>Reviewed files identified circumstances where ADEQ should have reported violations as either FRVs or HPVs into AFS and pursued enforcement, which ADEQ did not do. For active major sources, ADEQ is not identifying HPVs.</p> <p>For 7a, there was simply not enough information in the short inspection checklists to determine for 50% of the files reviewed whether the inspector did enough to verify compliance. In the more detailed inspection reports, the inspectors appeared to have strong technical skills and made appropriate compliance determinations.</p>

ADEQ did not adhere to the 1998 HPV Policy and inspectors did not recognize when violations met the HPV criteria and should have been identified/reported as HPVs (as reflected and confirmed in the internal HPV audit list).

There were NOV and NOCs EPA reviewed during the file review that did not have adequate follow up. NOVs for failure to follow dust control, file multiple reports, and other significant permit requirements had no penalty actions associated with them.

The NOV/NOC Decision matrix (“Air Quality Division NOV Assessment Matrix”) raises concern and indicates a lack of adequate responsiveness/seriousness to both reporting violations and emission violations that exceed the limit. EPA acknowledges that Arizona lacks administrative penalty authority which constrains its ability to assess penalties for many medium and smaller cases. Lack of administrative authority, however, does not relieve the state of its obligation to pursue timely and appropriate enforcement actions.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
Metric 7a – Accurate Compliance Determinations	100%		14	28	50.0%
Metric 8a – HPV Discovery Rate at Majors		4%	0	56	0%
Metric 8c – Accuracy of HPV Determinations	100%		0	4	0%

State Response

ADEQ has already responded to the first two key issues in Findings 1-1 and 2-3, and incorporates those responses by reference here. ADEQ also believes that implementing the proposed recommendations for both of those Findings will resolve some of the issues identified by EPA in this area.

ADEQ agrees that non-compliance with permit and rule conditions, especially those that result in a discharge to the environment or would provide credible evidence of a potential discharge to the environment are critical to the accomplishment of ADEQ’s mission which is “to protect and enhance public health and the environment”.

In the finding, EPA states that there was “...not enough information in the short inspection checklist to determine for 50% of the files reviewed whether the inspector did enough to verify compliance.” In the relevant metrics, EPA lists

this same 50% as “Accurate Compliance Determinations.” ADEQ agrees that additional information can be added to the inspection checklist and has committed to making appropriate changes to require numerical values be included when available. However, a limited lack of specificity that impacted EPA’s ability to audit the inspection reports as desired does not mean that 50% of the inspections were inaccurate.

During a face-to-face meeting at ADEQ’s offices on January 26, 2015, EPA provided some specific examples for this finding. In the discussion, EPA identified three specific cases it thought warranted penalties for the violations that were identified by ADEQ, the last two of which have received Clean Air Act Section 114 letters from EPA:

1. Needle Mountain for failure to provide six semi-annual compliance certifications;
2. Novo Biopower for emissions violations; and
3. Drake Cement Company for emissions violations, missing monitoring, and other issues.

Since the meeting, ADEQ has reviewed the record for Needle Mountain and found all six semi-annual compliance certifications in its files. Copies of these compliance certifications are attached to complete EPA’s file review. ADEQ is investigating how these compliance certifications were not included in the files that EPA reviewed for this facility.

With respect to Novo Biopower, after the emissions violations occurred the facility was sold to a new owner who has been working closely with ADEQ to ensure that the facility is properly repaired and can operate in compliance with the permit that has been issued to the facility. Seeking a major penalty against a new owner who has agreed to purchase the facility to bring it into compliance despite its past history of noncompliance is counterproductive to ADEQ’s mission. Were ADEQ to seek a penalty against the new owner, it creates a deterrent to behavior that should be encouraged – protecting the environment from additional violations by changing to more responsible corporate ownership.

The Drake Cement NOV’s remain under ADEQ review at this time as we attempt to better understand the facts related to this potential case. ADEQ will follow-up with EPA once it has completed its root cause analysis. ADEQ disagrees that the NOV/NOC decision matrix is responsible for any of the concerns that EPA has identified. This tool was developed in an effort to help staff understand when a potential deficiency needs to be reviewed with the Division Director. This is not to inhibit the issuance of NOV’s. Instead, ADEQ wants those that receive a NOV from ADEQ to react in a fashion similar to when they receive an EPA Finding of Violation. By agreeing that an issue deserves an NOV, the Division Director is also providing staff with implicit authority to pursue escalated enforcement including but not limited to abatement orders and escalated enforcement. ADEQ also understands that the facilities in the examples provided by EPA received NOV’s when warranted.

Recommendation	EPA and ADEQ will have a conference call by 9/1/2015 to discuss the details supporting EPA determinations. A recommendation will then be redrafted for incorporation in the final version of this SRF.
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Element 4 — Enforcement

Finding 4-1	Area for State/Local Improvement
Summary	The one enforcement action available for review in this period required corrective action that returned the facility to compliance in a specified timeframe. EPA believes additional formal enforcement would be appropriate based on review of other facility files. ADEQ does not report HPVs.
Explanation	<p>During fiscal year 2013, Arizona DEQ issued the following enforcement actions in response to CAA violations:</p> <ul style="list-style-type: none"> <u> 7 </u> facilities with Informal Actions (Notices of Opportunity to Correct or Notices of Violation) <u> 1 </u> Compliance Orders <u> 1 </u> Penalty Actions <p>EPA was only able to review one formal enforcement action for Mineral Park. ADEQ does not have a large source universe, however, there were other instances where EPA's file review found facilities for which EPA believes formal enforcement and penalties would be appropriate. For example, there were two facilities with significant and lengthy violation and NOCs with no penalty actions. EPA welcomes the opportunity to discuss these facilities with ADEQ in greater detail.</p> <p>ADEQ's NOC and NOV are informal administrative enforcement actions typically used by ADEQ as its initial response to a violation. NOCs and NOV do not create independently enforceable obligations on respondents. Compliance orders are formal administrative enforcement actions that impose independently enforceable obligations on the respondent to take actions to return to compliance. In accordance with its Compliance and Enforcement Handbook, ADEQ normally will attempt to negotiate an order on consent with respondents, but has authority to issue unilateral compliance orders if needed. ADEQ does</p>

not have authority to issue administrative penalties, but can take judicial actions to impose penalties and injunctive relief obligations.

EPA acknowledges that Arizona's lack of administrative penalty authority may constrain their ability to get penalties for many medium and smaller cases. If there are instances where ADEQ's authority limits their desired approach in enforcement, EPA would be happy to discuss whether EPA action in these cases is appropriate and feasible, as EPA does have administrative penalty authority. Penalties have been shown to level the playing field and ensure that companies that comply are not at an economic disadvantage when their competitors do not comply and receive no penalty for the non-compliance.

Metric 10a is designed to evaluate the extent to which the agency takes timely action to address HPVs. ADEQ did not typically code violations as HPVs, though file review indicated instances where an HPV designation would have been appropriate. ADEQ did not adhere to the 1998 HPV Policy and inspectors did not recognize when violations meet the HPV criteria and should be identified/reported as HPVs (as reflected and confirmed in the internal HPV audit list).

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a – Formal Enforcement Returns Facilities to Compliance	100%		1	1	100%
10a – Timely Action Taken to Address HPVs	67.5%		0	0	N/A
10b – Appropriate Enforcement Responses for HPVs	100%		0	0	N/A

State Response

ADEQ welcomes the opportunity to continue working with EPA regarding its compliance and enforcement strategies. ADEQ also incorporates its responses to Findings 1-1 and 2-3 by reference.

Recommendation

EPA acknowledges ADEQ is unable to commit to adopting and implementing revisions to its enforcement response procedures to provide for increased automatic formal enforcement against violating facilities at this time. With that acknowledgement and by August 31, 2015,

- ADEQ will commit to follow its revised Compliance and Enforcement Procedures and Monitoring and Reporting procedures using a combination of formal and informal actions.

- ADEQ will escalate NOV's to a formal enforcement action following the timeframes outlined in its revised Compliance and Enforcement Procedures.
- EPA will be prepared to take enforcement against facilities in violation if ADEQ is not able to take timely and appropriate formal enforcement, or if ADEQ requests assistance, and in other circumstances EPA deems appropriate. The exact form and amount of EPA's assistance will be determined as EPA monitors ADEQ progress in meeting its yearly workplan goals.

In addition:

- EPA and ADEQ now conduct routine conference calls, and have discussed instances where EPA's file review found facilities for which EPA believes penalty actions or formal enforcement would be appropriate, and where HPV designation may be appropriate. By August 31, 2015, EPA will confer again with ADEQ to clarify any outstanding issues in this regard.
- By October 31, 2015, ADEQ will report to EPA regarding any changes made to its enforcement policies based upon subsequent discussions EPA and ADEQ have (as referenced above).
- Incorporate or reference the recommendations in Finding 1-1 and 2-3.

Element 5 — Penalties

Finding	Area for state attention
Summary	ADEQ obtained what appears to be a reasonable penalty for the one case available for review, but the file did not contain a description of how ADEQ arrived at the \$1.3 million dollar penalty.
Explanation	The File Review indicated that there was not enough information in the file to determine if ADEQ has sufficient procedures in place to appropriately document both gravity and economic benefit in penalty calculations or whether penalty payments are being sufficiently documented, along with any difference between initial and final penalty. However, state penalties appear to include the penalty amount recommended under EPA's stationary source penalty policy and ADEQ stated they used the EPA penalty and included both a economic benefit

	and gravity portion. EPA commends ADEQ for obtaining a penalty over \$1,000,000 for a source that had egregious CAA violations.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a – Penalty Calculations Reviewed that Document Gravity and Economic Benefit	100%		0	1	0%
	12a – Documentation of Rationale for Difference Between Initial and Final Penalty	100%		0	1	0%
	12b – Penalties Collected	100%		1	1	100%
State Response	<p>ADEQ generally follows EPA’s Stationary Source Penalty Policy when calculating civil penalties. The primary driver in ADEQ’s calculations is the economic benefit of non-compliance. While these cases are rare for Arizona, ADEQ has required sources to reconstruct affected facilities at a significant cost if a preconstruction permit would have required more significant controls. ADEQ is considering whether a state-specific air quality penalty policy is more appropriate to use.</p> <p>ADEQ Recommendation: By September 30, 2015, ADEQ will report to EPA whether a state-specific air quality penalty policy is required, or if a guidance memorandum describing the expectation of general adherence to EPA’s Stationary Source Penalty Policy is most appropriate.</p>					
Recommendation	None required.					

Appendix

[This section is optional. Content with relevance to the SRF review that could not be covered in the above sections should be included here. Regions may also include file selection lists and met

STATE REVIEW FRAMEWORK

Arizona

Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2013

**U.S. Environmental Protection Agency
Region 9, San Francisco**

**Final Report
July 29, 2015**

Executive Summary

Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Arizona Department of Environmental Quality (ADEQ) in 2014.

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

- ADEQ's goal is to complete and issue all inspection reports within 30 days of the inspection. The goal is being achieved through the issuance of a Field Inspection Report. If no significant RCRA violations are observed during an inspection, a field inspection report is issued at the conclusion of the inspection. For inspections with violations warranting a Notice of Violation, the field inspection report is transmitted from the office via a Notice of Violation. Additionally, the Field Inspection Report contains all the elements required to document observed violations including process description(s), field observations, photographs, and photograph log if Notice of Violation issued. The process greatly increases return to compliance objectives set forth by the agency (e.g., reducing return to compliance from 120 days down to 60 days). ADEQ documents each Return to Compliance action completed by the facility in RCRAInfo. This includes any photographs, correspondences (including e-mails), training certifications and other documentation the facility submitted to ADEQ to demonstrate return to compliance with the identified violation(s).

Priority Issues to Address

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

- No RCRA top-priority issues were identified.

Most Significant RCRA Subtitle C Program Issues

- All ADEQ formal enforcement actions are managed through the State Attorney General's Office. To address the inability to issue administrative orders, ADEQ has developed innovative compliance assistance and enforcement programs that achieves a high level of compliance with the regulated community. The ADEQ RCRA program consistently achieved timely and appropriate enforcement actions that returned violating facilities to compliance.

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

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

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

II. SRF Review Process

Review period: Federal Fiscal Year 2013

Key dates: The review was conducted at ADEQ June 2-5, 2014.

State and EPA key contacts for review: EPA's primary point of contact for the RCRA review is John Brock, (415)-972-3999. Other members of the EPA review team were John Schofield and Elizabeth Janes. The primary point of contact for ADEQ is Randall Matas.

III. SRF Findings

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

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

There are three categories of findings:

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

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

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

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

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

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

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	EPA’s review of ADEQ inspection and enforcement files found that most of the minimum data requirements are being entered completely and accurately into the national data system. For return to compliance documentation, ADEQ has a well-developed process to ensure that accurate return to compliance information is entered into RCRAInfo.					
Explanation	Only one data error was observed (Clean Harbors). All other data entries were observed to be accurate. For the one data entry, the inspection report completion date and the inspection report transmittal date was not entered into RCRAInfo. Due to the fact the one data entry was the only exception of the 29 files reviewed, this does not represent an area of concern.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data	100%	N/A	28	29	96.6%
State response						
Recommendation	No further action is recommended.					

RCRA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations
Summary	ADEQ completed core coverage for TSDs (two-year coverage) and LQGs (one-year coverage). ADEQ has requested and has been approved to implement an alternative Compliance Management

	Strategy for generators: substituting SQG inspections for LQGs inspections. This affects the LQGs inspection numbers for ADEQ during the 5-year cycle covered under this review. ADEQ is meeting its alternative CMS commitment.																																			
Explanation	Element 2-1 is supported by Metrics 5a, 5b, and 5c. The OECA National Program Managers (NPM) Guidance outlines the core program inspection coverage for TSDs and LQGs. ADEQ met the 2-year TSD inspection requirement (Metric 5a). RCRAInfo identifies 8 operating TSD facilities within the State of Arizona. However, 1 of the TSD facilities is located on Tribal Land not under Arizona's jurisdiction. The correct number of operating TSD facilities that are inspected by ADEQ is 7 not 8 as listed in RCRAInfo. ADEQ inspected all of their 7 TSD facilities during the two year period.																																			
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>5a Two-year inspection coverage of operating TSDFs</td> <td>100%</td> <td>87.6%</td> <td>7</td> <td>7</td> <td>100%</td> </tr> <tr> <td>5b Annual inspection coverage of LQGs</td> <td>20%</td> <td>21%</td> <td>43</td> <td>214</td> <td>20.1%</td> </tr> <tr> <td>5c Five-year inspection coverage of LQGs</td> <td>100%</td> <td>66.6%</td> <td>142</td> <td>214</td> <td>66.4%</td> </tr> <tr> <td>5d Five-year inspection coverage of active SQGs</td> <td>NA</td> <td>11%</td> <td>80</td> <td>1174</td> <td>6.8%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a Two-year inspection coverage of operating TSDFs	100%	87.6%	7	7	100%	5b Annual inspection coverage of LQGs	20%	21%	43	214	20.1%	5c Five-year inspection coverage of LQGs	100%	66.6%	142	214	66.4%	5d Five-year inspection coverage of active SQGs	NA	11%	80	1174	6.8%
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5a Two-year inspection coverage of operating TSDFs	100%	87.6%	7	7	100%																															
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State response																																				
Recommendation	No further action is recommended.																																			
RCRA Element 2 — Inspections																																				
Finding 2-2	Meets or Exceeds Expectations																																			
Summary	ADEQ inspection reports were all complete with adequate supporting documentation (e.g., photographs, photograph logs). A majority of inspection reports were completed and entered into RCRAInfo in a timely manner.																																			
Explanation	All inspection reports are prepared in a standardized format that includes but is not limited to the following report elements: facility																																			

name, date of inspection, inspection participants, facility/process description, observations and files reviewed. At the conclusion of the facility inspection, Arizona provides the facility with a summary of the areas of concern, potential areas of non-compliance, and information required to be submitted to ADEQ to demonstrate that the facility has adequately addressed either the areas of concern or potential areas of non-compliance. The inspection summary provided to the facility is a component of the inspection/enforcement file. Once the inspection report is completed, report and report transmittal information is entered into RCRAInfo.

A general guideline of 45 days to complete an inspection report after the inspection was used for the purposes of this review. Arizona's goal is to complete the inspection report within 30 days. The report completion average for the period reviewed is 31 days. During the review period, ADEQ completed 82.8 of its inspection reports within 45 days of the inspection.

ADEQ has developed and implemented a field inspection report for each type of generator (i.e., LQG, SQG, CESQG). The field inspection report was rolled out for use in late FY2013. For this reason only one of the field inspection reports was review during this SRF. The field inspection report contains most of the elements of the standardized report described above. If there are no significant violations identified during the inspection, the field inspection report is completed and provided to the facility at the end of the inspection. If the facility wants copies of the photographs taken by ADEQ to document potential violations identified during the inspection, the facility must request a copy of the photographs at the conclusion of the inspection. When significant violations are identified during the inspection which warrants the issuance of a Notice of Violation, the field inspection report is issued from the office via a Notice of Violation and includes a photograph log. One of the files reviewed contained a field inspection report that was issued to the facility on the day of the inspection. The field inspection report program implementation has improved the timeliness of inspection reporting, so no state attention or improvement is necessary.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a Inspection reports complete and sufficient to determine compliance	100%		29	29	100%
6b Timeliness of inspection report completion	100%		24	29	82.8%	

State response

Recommendation	No further action is recommended.
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RCRA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations
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Summary	ADEQ makes accurate compliance determinations in the RCRA inspections reviewed.
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Explanation	File Review Metric 7a assesses whether accurate compliance determinations were made based on the inspections. All 29 of the inspection report files reviewed during that had accurate compliance determinations.
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Metric 7b is a review indicator that evaluates the violation identification rate for inspection conducted during the year of review. In the data metric analysis, ADEQ violation identification rate for FY2013 was 77.3%, above the national average of 34.8%.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations	100%		29	29	100%
	7b Violations found during inspections		34.8%	58	75	77.3%

State response	
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Recommendation	No further action is recommended.
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RCRA Element 3 — Violations

Finding 3-2	Area for State Attention
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Summary	Based on the files reviewed, accurate SNC determinations were made by ADEQ.
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Explanation	Only one of the selected files reviewed contained any violations that warranted a SNC determination. The SNC determination was made during the prior fiscal year (PAS Technologies).
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	<p>Metric 8a identifies the percent of facilities that receive a SNC designation in FY2013. ADEQ’s SNC identification rate for FY2013 is 0%. This is well below the national average of 1.7%. ADEQ has developed and successfully implemented a generator compliance assistance program. EPA believes the low SNC identification rate is attributable to this program.</p> <p>There were no issues of concern identified in ADEQ’s SNC determination policy or procedure. No significant SNC determination issues were identified in either the Round 1 or Round 2 SRFs.</p> <p>SNC identification is important part of an effective inspection and enforcement program. This information is used by the public to identify problematic facilities within their community. For this reason, EPA is identifying SNC determination as an area that ADEQ should pay particular attention to ensure that appropriate and timely SNC determination are made by the agency and entered into RCRAInfo.</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>8a SNC identification rate</td> <td>100%</td> <td></td> <td>0</td> <td>75</td> <td>0%</td> </tr> <tr> <td>8c Appropriate SNC determinations</td> <td>100%</td> <td></td> <td>1</td> <td>1</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	8a SNC identification rate	100%		0	75	0%	8c Appropriate SNC determinations	100%		1	1	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
8a SNC identification rate	100%		0	75	0%														
8c Appropriate SNC determinations	100%		1	1	100%														
State response																			
Recommendation	No further action is recommended.																		

RCRA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations
Summary	ADEQ takes timely and appropriate enforcement actions.
Explanation	<p>Metric 9a measures the enforcement responses that have returned or will return facilities with SNC or SV violations to compliance. All files reviewed (29 of 29) contained well documented returned to compliance information. Each return to compliance submission by the facility is entered into RCRAInfo by ADEQ.</p> <p>Metric 10b assesses the appropriateness of enforcement actions for SVs and SNCs. In the files reviewed, 100% of the facilities with violations (29 of 29) had an appropriate enforcement response.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	9a Enforcement that returns violators to compliance	100%		29	29	100%
10b Appropriate enforcement taken to address violations	100%		29	29	100%	
State response						
Recommendation	No further action is recommended.					

RCRA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	ADEQ's penalties consider and includes a gravity component and economic benefit as part of the penalty calculation.					
Explanation	Only 1 penalty case file was reviewed (PAS Technologies) as a part of this SRF. A well detailed penalty calculation and justification memorandum is contained in the confidential enforcement file. The penalty calculation process includes gravity component, economic benefit component and any adjustments (e.g., history of non-compliance). The file also includes documentation supporting that the penalty has been collected (i.e., copy of the check).					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit	100%	N/A	1	1	100%
	12a Documentation on difference between initial and final penalty	100%	N/A	1	1	100%
	12b Penalties collected	100%	N/A	1	1	100%
State response						
Recommendation	No further action is recommended.					

Appendix

ADEQ should ensure they maintain their FTE commitment in order to make sure they continue to achieve their inspection numbers.

Allowing ADEQ to substitute SQG inspections for LQGs in accordance with the RCRA LQG Flexibility Project allow them to re-direct resources to increase inspections at facilities that potentially pose a serious risk to human health and the environment.

Appendix

[This section is optional. Content with relevance to the SRF review that could not be covered in the above sections should be included here. Regions may also include file selection lists and metric tables at their discretion. Delete this page if i