



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

JAN 31 2017

Mr. David Paylor, Director
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Dear Mr. Paylor:

The U.S. Environmental Protection Agency, Region III (EPA) conducted the State Review Framework (SRF) Round Three review of the Virginia Department of Environmental Quality (VADEQ) implementation of the Clean Water Act National Pollutant Discharge Elimination System (NPDES), Clean Air Act Stationary Source (CAA) and Resource Conservation and Recovery Act (RCRA) compliance and enforcement programs. In addition, EPA conducted the second review of the NPDES mining program implemented by the Virginia Department of Mines, Minerals and Energy (DMME). The review evaluated enforcement data and files from both agencies for Fiscal Year 2014.

The enclosed report summarizes findings from both the VADEQ and DMME reviews, along with planned actions to facilitate program improvements and responses we received from VADEQ. The review determined that VADEQ's NPDES, RCRA and Air enforcement programs met program expectations.

As you know, on July 2, 2013, the Environmental Protection Agency (EPA) approved the transfer of delegation for implementation of the federally authorized NPDES Municipal Separate Storm Sewer System (MS4) and construction stormwater permitting programs from the Virginia Department of Conservation and Recreation (VADCR) to VADEQ. EPA's NPDES program is working closely with VADEQ as they integrate and build the NPDES MS4 and construction stormwater program. In consideration of the recent transfer of the NPDES MS4 and construction stormwater programs to VADEQ, EPA will evaluate the VADEQ implementation of the MS4 compliance and enforcement program in the Round Four VA SRF review.



If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Brian Hamilton, EPA's Virginia Liaison, at 215-814-5497.

Sincerely,



Cecil Rodrigues
Acting Regional Administrator

Enclosure



STATE REVIEW FRAMEWORK

Virginia

**Clean Water Act, Clean Air Act, and
Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2014**

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

Executive Summary

Introduction

In 2015, the U.S. Environmental Protection Agency Region III (EPA) enforcement staff conducted State Review Framework (SRF) Round Three enforcement program oversight review of the Virginia Department of Environmental Quality (VADEQ). The Region reviewed enforcement files from Fiscal Year 2014 for the Clean Water Act -National Pollution Discharge Elimination System (NPDES) Clean Air Act -Stationary Source Program (CAA), and the Resource Conservation Recovery Act (RCRA). The CWA-NPDES section of report includes findings for the following NPDES sector programs: municipal and industrial wastewater; industrial and construction stormwater; and mining. The NPDES Mining Program is implemented by the Virginia Department of Mines, Minerals and Energy (DMME).

On July 2, 2013, the Environmental Protection Agency (EPA) approved the transfer of delegation for implementation of the federally authorized NPDES Municipal Separate Storm Sewer System (MS4) and construction stormwater permitting programs from the Virginia Department of Conservation and Recreation (VADCR) to VADEQ. Since 2005, Virginia operated bifurcated stormwater regulatory programs with VADEQ implementing the industrial stormwater program and VADCR implementing the MS4 and construction stormwater programs. The transfer served to consolidate NPDES stormwater management and nonpoint source pollution control programs in one agency.

EPA conducted the first SRF for VADCR in 2010, and completed a targeted comprehensive Stormwater Program Review in 2011. Both reviews identified NPDES permitting and compliance issues with VADCR implementation of the stormwater programs. Several “areas for improvement” were identified in the SRF report including data, inspection coverage, and timely and appropriate enforcement. EPA and VADEQ continue to work together to address the SRF recommendations which includes building and integrating the MS4 and construction stormwater programs since the programs were transferred. EPA’s NPDES program is working closely with VADEQ as they integrate and build the NPDES MS4 and construction stormwater program. In consideration of the recent transfer of the NPDES MS4 and construction stormwater programs to VADEQ, EPA will evaluate VADEQ’s implementation of the MS4 compliance and enforcement program in the Round Four VA SRF review. EPA will monitor implementation progress of VADEQ’s MS4 and construction stormwater program through the Virginia Performance Partnership Agreement, an annual 106 grant agreement and the NPDES Permitting and Enforcement Clean Water Action work planning process. For further information regarding the transfer of the MS4 and construction stormwater programs refer to the Appendix.

VADEQ designed a Risk Based Inspection Strategy (RBIS) using risk-based criteria to target inspections for VADEQ’s air, water, solid waste, and hazardous waste programs. The goal of RBIS is to help prioritize inspection resources to focus on those facilities that based on available state data, pose the greatest potential for impact to human health and the environment. VADEQ’s media programs exercise flexibility under applicable CMS policies using RBIS to prioritize their inspection targeting. Risks can include compliance history, environmental

sensitivity, Agency exposure/sectors, multimedia applicability, and voluntary participation in Virginia's Environmental Excellence 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 Enforcement and Compliance History On-line (ECHO) web site.

Areas of Strong Performance

NPDES

- VADEQ implements a compliance enforcement point system which includes rigorous review of all NPDES Discharge Monitoring Reports (DMR) for major and non-major individual permittees. Noncompliance identified through the DMR reviews is promptly addressed through written formal notification to the permittee prior to Significant Noncompliance (SNC) status. The VADEQ enforcement compliance point system results in increased permit compliance in the NPDES major universe and a SNC rate substantially lower than the national average.
- DMME utilizes next generation compliance monitoring techniques which includes the use of laptops in the field, which has resulted in more fluid transfer of data from the inspector to DMME's main electronic program files, as well as complete and timely inspection reports.

AIR

- The Compliance Monitoring Reports (CMRs) are extremely well written, organized, and could be used as a model for other states.
- The penalty files are complete and thorough, including all penalty collection documentation.

RCRA

- VADEQ's RCRA program was thorough in entry of required data including inspections, violations, return to compliance, and enforcement actions. In response to a national pharmaceutical case, VADEQ experienced a significant increase in generators of hazardous waste notifying as Large Quantity Generators (LQGs). VADEQ developed a procedure to handle the increase, specifically for pharmaceutical/retail stores where a large number of stores notified at once.
- VADEQ's RCRA program inspections were detailed, consistent and met all of the inspection coverage requirements within the timelines established.

Priority Issues to Address

On July 2, 2013, EPA approved the transfer of delegation for implementation of the federally authorized NPDES MS4 and construction stormwater permitting programs from the VADCR to VADEQ. The transfer served to consolidate NPDES stormwater management and nonpoint

source pollution control programs in one agency. EPA’s NPDES program is working closely with VADEQ as they integrate and build the NPDES MS4 and construction stormwater program.

Most Significant CWA-NPDES Program Issues¹

- None

Most Significant CAA Stationary Source Program Issues

- None

Most Significant RCRA Subtitle C Program Issues

- None

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 a level playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors.”

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I. Background on the State Review Framework

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

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

Reviews cover:

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

EPA conducts SRF reviews in three phases:

- Analyzing information from 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 process to ensure that the state understands 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 Fiscal Year (FY) 2004. The third round of reviews began in FY2013 and will continue through FY2017.

II. SRF Review Process

Review period: FY 2014

Kick-off Meeting with VADEQ July 14, 2015

NPDES

Key dates:

July 21, 2015 - VADEQ-Blue Ridge Regional Office file review conducted

July 21, 2015 - VADEQ-Tidewater Regional Office file review conducted

August 4, 2015 - DMME Big Stone Gap Mining Office file review conducted

EPA and State key contacts:

EPA Region III:

Christopher Menen - State Oversight Team Leader, Office of NPDES Permits and Enforcement, Water Protection Division

Michelle Price-Fay - Chief, NPDES Enforcement Branch, Water Protection Division.

VADEQ:

Jerome Brooks - Manager, Office of Water Compliance VADEQ Central Office

Jeffery Hurst - Deputy Regional Director VADEQ Blue Ridge Regional Office

Roger Everton - Water Compliance and Monitoring Manager VADEQ Tidewater Regional Office

VADMME:

Joey O'Quinn - Reclamation Program Manager

AIR

Key dates:

Clean Air Act File Review July 13 - 16, 2015

EPA and State key contacts:

EPA Region III:

Kurt Elsner - EPA, Air Protection Division, State Air Enforcement Liaison for Virginia

Danielle Baltera - EPA, Air Protection Division

Theresa Horgan - EPA, Air Protection Division

Mary Cate Opila - EPA, Air Protection Division

VADEQ SRF Coordination:

Todd Alonzo - VADEQ, Manager, Office of Air Compliance Coordination (OACC) Director

Kerri Nicholas - VADEQ, Air Enforcement Manager

Megan Hayes - VADEQ, OACC Enforcement and Data Quality

Crystal Bazyk - VADEQ, Air Compliance and Enforcement Manager, Southwest Regional Office

John Brandt - VADEQ, Air Compliance and Enforcement Manager, Tidewater Regional Office

RCRA

Key dates:

RCRA File Review July 22- 23, 2015

EPA and State key contacts:

EPA Region III:

Andrea Barbieri - Virginia State Program Manager, Office of State Programs, Land and Chemicals Division

VADEQ SRF Coordination:

Leslie Romanchik - VADEQ, Division of Land Protection and Revitalization, Hazardous Waste Program Manager

Region III SRF Coordination:

Samantha Beers - Director, Office of Enforcement, Compliance and Environmental Justice

Betty Barnes - SRF Coordinator, Office of Enforcement, Compliance and Environmental Justice

III. SRF Findings

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

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

There are three (3) categories of findings:

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

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

Area for State Improvement: An activity, process, or policy that one 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

Finding 1-1 Meets or Exceeds Expectations

Summary VADEQ consistently uploads NPDES minimum data requirements (MDR) for individual major and non-major municipal and industrial waste water permits into the Integrated Information Compliance System (ICIS), EPA’s national database for enforcement.

Explanation VADEQ met or exceeded the national average for metrics 1b1 and 1b2. Under metric 2b, the VADEQ SRF file review identified 31/33 or 93.9 % of the major municipal and industrial waste NPDES MDRs were accurately reported in the national data system.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	1b1 Permit limit rate for major facilities	>95%	91.1%			91.4%
	1b2 DMR entry rate for major facilities	>95%	96.6%			99.9%
	2b Files reviewed where data are accurately reflected in the national data system	N/A	N/A	31	33	93.9%

State response The percentage of metric 1b1 was incorrectly lowered when all 150 major permits were calculated with the assumption that each had effluent limitations in their permits; the query logic made for metric 1b1 does not allow exclusion for permits without effluent limitations. VA does not require DMR data for the 11 Phase I MS4 permits, which are considered major facilities. The MS4 Phase I permittees are required to perform iterative monitoring as part of their MS4 program plan that do not necessarily conform to the traditional VPDES monitoring strategy. The iterative process involves routine assessment to determine the need to further improve water quality and protect beneficial uses, review of available technologies and practices to accomplish the needed improvement, and evaluate resources available to implement the technologies and practices.

Additionally, Alexandria Combined Sewer System, VA0087068, has no discharge during dry weather conditions, no discharge limits were tracked directly in VADEQ’s CEDS database. Rohoic Creek Wastewater Treatment Plant, VA0092274, was the only one with ICIS uploading issue

at the time, but was corrected in time for the receipt of DMR. The percentage for 1b1 should have been 137/138 or 99.3%.

Recommendation None

Clean Water Act Findings

CWA Element 1 — Data

Finding 1-2 **Area for State Attention**

Summary

VADEQ’s NPDES industrial stormwater and construction stormwater programs do not enter or upload NPDES MDRs into the national data system (metric 2b).

In addition, Virginia localities delegated to implement the NPDES construction stormwater programs do not enter or upload NPDES MDRs into the national data system.

VADEQ reported eight (8) NPDES non-major facilities with individual permits in Category 1 noncompliance in the national data system (metric 7f1).

VADEQ reported 59 NPDES non-major facilities with individual permits in Category 2 noncompliance in the national data system (metric 7g1).

Explanation

VADEQ currently manages NPDES MDRs for industrial stormwater and construction stormwater data in the Virginia state database, the Comprehensive Environmental Data System (CEDs). On July 2, 2013, responsibility for the implementation of the MS4 and construction stormwater programs for the Commonwealth was transferred from VADCR to VADEQ. Implementation of the program includes NPDES permits, inspection and compliance and enforcement. VADEQ is working closely with EPA to issue NPDES permits and build the necessary practice and infrastructure to fully implement the VA NPDES stormwater programs. In addition, EPA and VADEQ will finalize an NPDES Data Management Strategy that establishes a schedule with milestones for VADEQ to upload NPDES MDRs from CEDs into ICIS for industrial stormwater and construction stormwater non-major general permits.

The data as reported in the national data system under data metric 7f1 and 7g1 did not correspond to the Virginia Annual Non-Compliance Report (ANCR) coinciding with the FY2014 SRF review timeframe. The 2014 Calendar Year VA ANCR reported 94 and 253 facilities as measured under metrics 7f1 and 7g1 respectively. VADEQ does not enter all of the data points resulting in incomplete state entry/upload of NPDES MDR’s into the national database for metrics 7f1 and 7g1.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	2b Files reviewed where data are accurately reflected in the national data system (Ind-SW)	N/A	N/A	0	10	0%
	2b Files reviewed where data are accurately reflected in the national data system (Const-SW)	N/A	N/A	0	12	0%
	7f1 Non-major facilities in Category 1 noncompliance	N/A	N/A	94	785	11.9%
	7g1 Non-major facilities in Category 2 noncompliance	N/A	N/A	253	785	32.2%

State response

Metrics 7f1, Non-major facility in category I non-compliance, and 7g1, Non-major facility in category II non-compliance, work in conjunction with the ANCR process which is designed to obtain accurate counts of non-major individual facilities in non-compliance. However, VADEQ does not currently flow any non-major limit or DMR data to ICIS as stated in the 106 grant agreement. Without the entire universe of the non-major permit compliance data in ICIS, the counts directly generated from ICIS would not be able to provide meaningful results. The paper ANCR submitted by VADEQ is generated accurately by manual review of all the non-compliant records stored in the VADEQ’s database, CEDS.

The information generated directly from ICIS does not reflect the facts about Categories I and II non-compliance; caveats were provided to EPA at the conclusion of VADEQ’s annual data verification process.

Recommendation

None

CWA Element 1 — Data

Finding 1-3 Area for State Attention

Summary VA DMME’s NPDES Mining Program does not enter or upload NPDES MDRs into the national data system (metric 2b).

Explanation DMME maintains a state database to manage NPDES compliance and enforcement data for the NPDES Mining Program. The state database does not currently enter or upload NPDES data to ICIS. The DMME state database does include the NPDES MDRs required for non-major individual permittees. EPA and DMME have been working cooperatively to enhance the state's ability to flow NPDES MDRs to ICIS from the State’s system. As of the date of the SRF file review, DMME beta tested an upload of NPDES MDRs to ICIS. EPA and DMME anticipate a complete set of NPDES MDRs will flow to ICIS in 2016. In addition, EPA and DMME completed an NPDES Data Management Strategy which establishes a plan with milestones for DMME to meet all federal NPDES data management requirements.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	2b Files reviewed where data are accurately reflected in the national data system (VA DMME)	N/A	N/A	0	23	0%

State response None

Recommendation None

CWA Element 2 — Inspections

Finding 2-1 Meets or Exceeds Expectations

Summary

VADEQ met its FY2014 CMS commitments for inspection coverage of NPDES facilities (metrics 4a1, 4a2, 4a4, 4a5, 4a7, 4a8, 4a9, 5a1, 5b1 and 5b2). VADEQ did not commit to any FY2014 NPDES Concentrated Animal Feeding Operations (CAFO) inspections (metric 4a10).

VADEQ's NPDES municipal and industrial wastewater programs; and industrial and construction stormwater programs, consistently produced complete inspection reports with sufficient documentation to determine compliance (metric 6a).

VADEQ's NPDES municipal and industrial wastewater programs; and industrial stormwater and construction stormwater programs, consistently completed inspection reports within the prescribed federal and Virginia state policy timeframes (metric 6b).

Explanation

VADEQ performed one (1) MS4 inspection during the FY2014 SRF review period which met the state's Compliance Monitoring Strategy (CMS) commitment. On July 2, 2013, VADEQ assumed delegation of the MS4 and construction stormwater programs from VADCR. VADEQ is working closely with EPA to align the VA NPDES stormwater programs with federal requirements. In consideration of the recent transfer of the NPDES MS4 and construction stormwater programs to VADEQ, EPA will evaluate the VADEQ implementation of the MS4 compliance, and enforcement program in the Round 4 VA SRF review. EPA will monitor the implementation progress of the VADEQ's MS4 program through the VA Performance Partnership Agreement, annual 106 grant agreement, and the NPDES Permitting and Enforcement Clean Water Action Work Planning process (4a7).

VADEQ did not perform any NPDES CAFO inspections in FY2014 as measured under metric 4a10. The VA NPDES CAFO General Permit expired on December 31, 2010 and has not been reissued. Since 2011, VADEQ and EPA have worked to transition from a general permit to individual NPDES permits. It is important to note that all Virginia Animal Feeding Operations (AFO) with more than 300 animal units (AUs) (or more than 200 AUs for poultry operations), including all Large CAFOs and Medium AFOs, are required to obtain coverage under the Virginia

Pollution Abatement (VPA) permit program. A facility with VPA permits does not automatically require the need for an individual NPDES permit and EPA is continuing to work with VADEQ to issue permits for CAFO operations relative to metric 4a10. EPA will monitor the implementation progress of the VADEQ's CAFO program through the VA Performance Partnership Agreement, annual 106 grant agreement, and the NPDES Permitting and Enforcement Clean Water Action Work Planning process. EPA will evaluate VADEQ's implementation of the CAFO compliance and enforcement program in the Round 4 VA SRF review.

VADEQ met its CMS commitment for inspections of NPDES facilities with non-major general permits (Metric 5b2) although the NPDES MDRs for those permits are managed in the state database CEDS and are not entered or uploaded into the ICIS national database.

VADEQ's municipal and industrial wastewater programs developed complete inspections reports that provided sufficient documentation to determine compliance in 28 out of 28 reports reviewed as measured under metric 6a.

VADEQ's industrial stormwater program provided complete inspection reports with sufficient documentation to determine compliance in 10 out of 10 reports reviewed by EPA. In the VADEQ construction stormwater program, the file review identified 11 out of 11 inspection reports complete with sufficient documentation to determine compliance as measured under metric 6a.

The SRF file review under metric 6b determined that VADEQ's municipal and industrial wastewater program averaged 27 days for completing an inspection report and the industrial stormwater program averaged 21 days for completing a report. VADEQ's construction stormwater program averaged 11 days for completing a timely inspection report as measured under metric 6b.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a1 Pretreatment compliance inspections and audits	N/A	N/A	3	3	100%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	N/A	N/A	4	4	100%
4a4 Major CSO inspections	N/A	N/A	3	3	100%
4a5 SSO inspections	N/A	N/A	1	1	100%
4a7 Phase I & II MS4 audits or inspections	N/A	N/A	1	1	100%

4a8 Industrial stormwater inspections	N/A	N/A	248	216	114%
4a9 Phase I and II stormwater construction inspections	N/A	N/A	1414	N/A	N/A
4a10 Medium and large NPDES CAFO inspections	N/A	N/A	0	0	N/A
5a1 Inspection coverage of NPDES majors	N/A	55.4%	55	151	36.4%
5b1 Inspection coverage of NPDES non-majors with individual permits	N/A	26.5%	194	838	23.2%
5b2 Inspection coverage of NPDES non-majors with general permits	N/A	7.1%	N/A	N/A	N/A
6a Inspection reports complete and sufficient to determine compliance at the facility (Muni/Ind WW)	N/A	N/A	28	28	100%
6a Inspection reports complete and sufficient to determine compliance at the facility (Ind-SW)	N/A	N/A	10	10	100%
6a Inspection reports complete and sufficient to determine compliance at the facility (Const-SW)	N/A	N/A	11	11	100%
6b Inspection reports completed within prescribed timeframe (Muni/Ind WW)	N/A	N/A	25	28	89.3%
6b Inspection reports completed within prescribed timeframe (Ind-SW)	N/A	N/A	9	10	100%
6b Inspection reports completed within prescribed timeframe (Const-SW)	N/A	N/A	11	11	100%

State response

Relative to 5a1, VADEQ implements a Risked Based Inspection Strategy (RBIS) for inspection planning and targeting in addition to requirements of the Federal Compliance Monitoring Strategy. Under VADEQ’s RBIS well performing major facilities with good compliance histories are eligible to have their inspection frequency reduced from once in two (2) years to once in three (3) years to allow VADEQ flexibility to cover more of the total universe facilities. VADEQ developed RBS in 2007 with EPA involvement and EPA approved of its application in 2008.

However, the algorithm in EPA’s system does not account for any inspection frequency greater than once in two (2) years so VA appears to be significantly under the national average even though VA has had an approved alternative monitoring strategy for since federal fiscal year 2009. VADEQ has brought this particular oversight that does not account for VADEQ’s RBS to the attention of EPA before.

Recommendation None

CWA Element 2 — Inspections

Finding 2-2 Meets or Exceeds Expectations

Summary DMME met its FY2014 CMS commitments for inspection coverage of NPDES individual major non-major facilities.

DMME’s NPDES Mining Program consistently produced complete inspection reports with sufficient documentation to determine compliance as measured under metric 6a.

DMME’s NPDES Program consistently completed inspection reports within the prescribed Virginia state policy timeframes as measured under metric 6b.

Explanation DMME conducts a minimum of one (1) complete NPDES compliance evaluation inspection (CEI) annually at all VA mining facilities as measured under metrics 5a1 and 5b1.

DMME’s NPDES Mining Program developed complete inspections reports that provided sufficient documentation to determine compliance in 18 out of 18 reports reviewed.

The SRF file review under metric 6b determined that DMME’s NPDES Mining Program averaged one (1) day for completing an inspection report.

Additionally, DMME utilizes next generation compliance monitoring techniques which includes the use of laptops in the field resulting in more fluid transfer of data from the inspector to DMME’s main electronic program files, as well as complete and timely inspection reports.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	5a1 Inspection coverage of NPDES majors	N/A	N/A	1	1	100%
	5b1 Inspection coverage of NPDES non-majors with individual permits	N/A	N/A	334	334	100%
	6a Inspection reports complete and sufficient to determine compliance at the facility	N/A	N/A	18	18	100%
	6b Inspection reports completed within prescribed timeframe	N/A	N/A	18	18	100%

State response None

Recommendation None

CWA Element 3 — Violations

Finding 3-1 Meets or Exceeds Expectations

Summary

VADEQ consistently identified single event violations (SEV) at NPDES major facilities and reported them in the national data system (metric 7a1).

VADEQ's percentage of NPDES major facilities in noncompliance as reported in the national data system is substantially lower than the FY2014 national average (metric 7d1).

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

VADEQ reported eight (8) NPDES non-major facilities with individual permits in Category 1 noncompliance (metric 7f1).

VADEQ reported 59 NPDES non-major facilities with individual permits in Category 2 noncompliance (metric 7g1).

VADEQ reported seven (7) NPDES major facilities in SNC during the FY2014 SRF review year (metric 8a2).

VADEQ consistently identifies SEVs as SNC or non-SNC at NPDES major facilities (metric 8b).

VADEQ consistently identifies and reports on a timely basis SEVs as SNC (metric 8c).

Explanation

During the review period of FY2014, VADEQ identified and reported 33 SEVs at NPDES major facilities as measured under data metric 7a1.

VADEQ reported 43.7% of major facilities in noncompliance with DMR violations as measured under data metric 7d1.

The file review determined that VADEQ's NPDES municipal and industrial waste water program made an accurate compliance determination in 28 out of 28 inspection reports as measured under file metric 7e. The industrial stormwater program made accurate compliance determinations in 10 out of 10 inspections reports, and the construction stormwater program made accurate compliance determinations in 11 out of 11 inspection reports as measured under file metric 7e.

The data as reported in the national data system under data metric 7f1 and 7g1 did not correspond to the Virginia ANCR coinciding with the FY2014 SRF review timeframe. VADEQ provided updated noncompliance numbers for non-major facilities from the state data system at the request of EPA (see below). The 2014 Calendar Year VA ANCR reported 94 and 253 facilities as measured under metrics 7f1 and 7g1 respectively. VADEQ does not enter all of the data points resulting in incomplete state entry/upload of NPDES MDR's into the national database for metrics 7f1 and 7g1.

The FY2014 SRF Data Metric Analysis (DMA) identified seven (7) out of 152 NPDES major facilities in SNC. VADEQ's 4.6% of SNC NPDES majors is substantially lower than the national average (20.7%) as measured by metric 8a2. The VA SRF review identified a VADEQ best practice for evaluation of NPDES permit noncompliance. VADEQ developed a facility enforcement point system which includes a rigorous DMR review process to identify and address noncompliance before a facility attains an SNC designation.

The file review identified six (6) out of seven (7) SEV violations as SNC or non-SNC at NPDES major facilities as measured under metric 8b.

The file review determined that VADEQ identified and reported in a timely manner three (3) out of four (4) SEVs as SNC as measured under metric 8c.

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	-	-	33
7d1 Major facilities in noncompliance	N/A	78.7	66	151	43.7%
7e Inspection reports reviewed that led to an accurate compliance determination (Muni/Ind WW)	N/A	N/A	28	28	100%
7e Inspection reports reviewed that led to an accurate compliance determination (Ind-SW)	N/A	N/A	10	10	100%
7e Inspection reports reviewed that led to an accurate compliance determination (Const-SW)	N/A	N/A	11	11	100%
7f1 Non-major facilities in Category 1 noncompliance	N/A	N/A	94	785	11.9%
7g1 Non-major facilities in Category 2 noncompliance	N/A	N/A	253	785	32.2%
8a2 Percentage of major facilities in SNC	N/A	20.7%	7	152	4.6%
8b Single-event violations accurately identified as SNC or non-SNC	N/A	N/A	6	7	85.7%

	8c Percentage of SEVs identified as SNC reported timely at major facilities	N/A	N/A	3	4	75%
State response	None					
Recommendation	None					

CWA Element 3 — Violations

Finding 3-2 Meets or Exceeds Expectations

Summary

The DMME NPDES Mining Program consistently produces inspection reports with sufficient documentation leading to an accurate compliance determination (metric 7e).

DMME reported zero (0) NPDES non-major facilities with individual permits in Category 1 noncompliance (metric 7f1).

DMME reported 100 NPDES non-major facilities with individual permits in Category 2 noncompliance (metric 7g1).

DMME did not report any NPDES major facilities in SNC during the FY2014 SRF review year (metric 8a2).

DMME did not identify any SEVs as SNC or non-SNC at NPDES major facilities during the FY2014 SRF review timeframe (metric 8b).

DMME did not identify any SEVs as SNC that were reported untimely at NPDES major facilities during the FY2014 SRF review timeframe (metric 8c).

Explanation

The file review determined that VA DMME's NPDES Mining Program made an accurate compliance determination in 16 out of 16 inspection reports as measured under file metric 7e.

DMME does not enter/upload NPDES MDRs related to metric 7f1 and 7g1 into the national database. DMME reported zero (0) out of 334 facilities in Category 1 noncompliance and 100 out of 334 facilities in Category 2 noncompliance as measured under metrics 7f1 and 7g1 respectively. DMME maintains a state database to manage NPDES compliance and enforcement data for the NPDES Mining Program. The state database does not currently enter or upload NPDES data to the national database ICIS. The DMME state database does include the NPDES MDRs required for non-major individual permittees. EPA and DMME have been working cooperatively to enhance the state's ability to flow NPDES MDRs to ICIS from the State's system as of August 4, 2015, DMME beta tested an upload NPDES MDRs to ICIS. EPA and DMME anticipate a complete set of NPDES MDRs will flow to ICIS in 2016. In addition, EPA and DMME completed an NPDES Data Management Strategy which establishes a plan with milestones for DMME to meet all federal NPDES data management requirements.

The VA mining universe consists of one (1) NPDES individual major facility and 334 NPDES individual non-majors. At the time of the file review, DMME was not required to identify or track SEV/SNC determinations as measured under metrics 8b and 8c.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	7e Inspection reports reviewed that led to an accurate compliance determination (Mining)	N/A	N/A	16	16	100%
	7f1 Non-major facilities in Category 1 noncompliance (Mining)	N/A	N/A	0	334	0%
	7g1 Non-major facilities in Category 2 noncompliance	N/A	N/A	100	334	29.9%
	8b Single-event violations accurately identified as SNC or non-SNC (Mining)	N/A	N/A	N/A	N/A	
	8c Percentage of SEVs identified as SNC reported timely at major facilities (Mining)	N/A	N/A	N/A	N/A	
State response	None					
Recommendation	None					

CWA Element 4 — Enforcement

Finding 4-1 Meets or Exceeds Expectations

Summary

The VADEQ NPDES municipal and industrial wastewater programs, and industrial stormwater program consistently address violations with enforcement responses that return or will return as source in violation to compliance (metric 9a).

The VADEQ NPDES municipal and industrial wastewater program consistently addressed NPDES major enforcement actions as timely and appropriate (metric 10a1).

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

Explanation

The SRF file review of VADEQ’s NPDES municipal and industrial wastewater program identified 27 out of 27 enforcement actions that returned facilities to compliance as measured under metric 9a.

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

The SRF file review of VADEQ’s municipal and industrial wastewater programs identified 27 out of 27 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

The SRF file review of VADEQ’s industrial stormwater program identified nine (9) out of nine (9) enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

The SRF file review of VADEQ’s construction stormwater program identified 11 out of 12 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance (Muni/Ind WW)	N/A	N/A	27	27	100%

9a Percentage of enforcement responses that return or will return source in violation to compliance (Ind-SW)	N/A	N/A	9	9	100%
10b Enforcement responses reviewed that address violations in an appropriate manner(Muni/Ind WW)	N/A	N/A	27	27	100%
10b Enforcement responses reviewed that address violations in an appropriate manner (Ind-SW)	N/A	N/A	9	9	100%
10b Enforcement responses reviewed that address violations in an appropriate manner (Const-SW)	N/A	N/A	11	12	91.7%

State response None

Recommendation None

CWA Element 4 — Enforcement

Finding 4-2 Area for State Attention

Summary The VADEQ NPDES construction stormwater program addresses violations with enforcement responses that return or will return as source in violation to compliance (metric 9a).

Explanation The SRF file review of VADEQ’s NPDES construction stormwater program identified nine (9) out of 12 enforcement actions that returned facilities to compliance as measured under metric 9a. The file review determined three enforcement files did not include adequate documentation of the facilities’ return to compliance could not be confirmed through the file review; however, interviews with staff confirmed that the facilities did return to compliance. In June 2013, VADEQ assumed delegation of the MS4 and construction stormwater programs from VADCR. VADEQ is working closely with EPA to align the VA NPDES stormwater programs with federal requirements.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	9a Percentage of enforcement responses that return or will return source in violation to compliance (Muni/Indus WW)	N/A	N/A	9	12	75%
	10a1 Major facilities with timely action as appropriate	>98%	9%	1	2	50%

State response None

Recommendation None

CWA Element 4 — Enforcement

Finding 4-3 Meets or Exceeds Expectations

Summary The DMME NPDES Mining Program consistently addresses violations with enforcement responses that return or will return as source in violation to compliance (metric 9a).

The DMME NPDES Mining Program initiates enforcement responses that address violations in an appropriate manner (metric 10b).

Explanation The SRF file review of DMME’s NPDES Mining Program identified 14 out of 14 enforcement actions that returned facilities to compliance as measured under metric 9a.

DMME only has one (1) major NPDES permit and there was no enforcement action for this facility during the FY 2014 SRF review timeframe. Therefore, the review team was unable to evaluate timely action as appropriate as measured under metric 10a1. The VA mining universe consists of 334 NPDES individual non-majors. In addition, DMME does not enter/upload NPDES MDRs related to metric 10a1 into the national database. EPA and DMME are working cooperatively to enhance the state's ability to flow NPDES MDRs to ICIS.

The SRF file review of VA DMME’s NPDES Mining Program identified 14 out of 14 enforcement responses that addressed violations in an appropriate manner as measured under metric 10b.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Percentage of enforcement responses that return or will return source in violation to compliance (Mining)	N/A	N/A	14	14	100%
10a1 Major facilities with timely action as appropriate (Mining)	N/A	N/A	N/A	N/A	
10b Enforcement responses reviewed that address violations in an appropriate manner (Mining)	N/A	N/A	14	14	100%

State response None

Recommendation None

Finding 5-1 Meets or Exceeds Expectations

Summary

The VADEQ NPDES municipal and industrial wastewater programs consistently document penalty calculations that include gravity and economic benefit (metric 11a).

The VADEQ NPDES municipal and industrial wastewater programs consistently document the difference between initial and final penalties (metric 12a).

The VADEQ NPDES municipal and industrial wastewater programs consistently document collection of penalties (metric 12b).

The VADEQ NPDES industrial and construction stormwater programs did not have any NPDES formal enforcement actions during the SRF FY2014 review timeframe. Any enforcement would follow VADEQ policy with regard to gravity and economic benefit.

Explanation

The SRF file review of VADEQ’s municipal and industrial wastewater programs identified five (5) out of five (5) enforcement files that contained documentation of penalty calculations that included gravity and economic benefit as measured under metric 11a.

The SRF file review of VADEQ’s municipal and industrial wastewater programs identified five (5) out of five (5) enforcement files that contained documentation of the difference between initial and final penalty as measured under metric 12a.

The SRF file review of VADEQ’s municipal and industrial wastewater programs identified five (5) out of five (5) enforcement files that contained documentation of the penalty collection as measured under metric 12b.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	11a Penalty calculations reviewed that consider and include gravity and economic benefit (Muni/Ind WW)	N/A	N/A	5	5	100%
	12a Documentation of the difference between initial and final penalty and rationale (Muni/Ind WW)	N/A	N/A	5	5	100%
	12b Penalties collected (Muni/Ind WW)	N/A	N/A	5	5	100%

State response None

Recommendation None

CWA Element 5 — Penalties

Finding 5-2 Area for State Improvement

Summary The DMME NPDES Mining Program does not consistently document penalty calculations that include gravity and economic benefit (metric 11a).

Explanation The SRF file review of VA DMME’s NPDES Mining Program identified zero (0) out of 13 enforcement files that contained documentation of penalty calculations that included gravity and economic benefit as measured under metric 11a.

A similar finding was observed in the Round 2 SRF report that was finalized and sent to DMME in December 2014. This SRF file review determined that DMME considers gravity and economic benefit when calculating a penalty but does not formally document the economic benefit component in its penalty calculations. DMME uses the Virginia Coal Surface Mining and Reclamation Permanent Regulatory Program Civil Assessment Manual (revised 2006) to calculate penalties. The manual doesn’t include a discussion of economic benefit. During the SRF file review, DMME stated that formal consideration of economic benefit under the current civil assessment manual would require a change in law through VA legislative action.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	11a Penalty calculations reviewed that consider and include gravity and economic benefit (Mining)	N/A	N/A	0	13	0%

State response None

Recommendation DMME should develop a formal documentation process for consideration of the economic benefit of noncompliance in its NPDES civil penalty assessments. Within 120 days of issuance of the VA SRF final report, VA DMME will submit a strategy to EPA for acquiring regulatory or policy-based authority to formally consider economic benefit in NPDES civil penalty assessments. EPA will conduct a limited enforcement file review to confirm documentation of economic benefit consideration in NPDES mining penalties and deem the recommendation complete upon verification.

CWA Element 5 — Penalties

Finding 5-3 Meets or Exceeds Expectations

Summary

The DMME NPDES Mining Program consistently documents the difference between initial and final penalties (metric 12a).

The DMME NPDES Mining Program consistently documents collection of penalties (metric 12b).

Explanation

The SRF file review of DMME’s NPDES Mining Program identified 13 out of 13 enforcement files that contained documentation of the difference between initial and final penalty as measured under metric 12a.

The SRF file review of DMME’s NPDES Mining Program identified four (4) out of four (4) enforcement files that contained documentation of the penalty collection as measured under metric 12b. DMME is deferring penalty collection on the remaining nine (9) formal enforcement actions pending resolution of ongoing federal enforcement activities.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
12a Documentation of the difference between initial and final penalty and rationale (Mining)	N/A	N/A	13	13	100%
12b Penalties collected	N/A	N/A	4	4	100%

State response

None

Recommendation

None

Clean Air Act Findings

CAA Element 1 — Data

Finding 1-1 Meets or Exceeds Expectations

Summary Greater than 94% of the data was entered into the Air Facility System (AFS) completely, accurately and timely.

Explanation The majority of metrics included in this element indicated complete, accurate, and timely results. Two (2) exceptions to this finding are the timely reporting of enforcement minimum data requirements (MDRs) in the Piedmont Regional Office (metric 3b3) and violations reported per informal actions (metric 7b1).

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Accurate MDR data in AFS	100%	NA	29	30	96.7%
3a2 Untimely entry of High Priority Violation (HPV) determinations	0	NA	NA	NA	1
3b1 Timely reporting of compliance monitoring minimum data requirements (MDRs)	100%	83.3%	655	684	95.8%
3b2 Timely reporting of stack test MDRs	100%	80.8%	103	109	94.5%
3b3 Timely reporting of Enforcement MDRs (excluding Piedmont Regional Office)	100%	77.9%	45	46	97.8%
5a FCE coverage: majors and mega-sites	100%	88.6%	120	120	100%
5b FCE coverage: SM-80s	100%	89.9%	84	84	100%
5c Full Compliance Evaluation (FCE) coverage: synthetic minors (non-SM 80s) that are part of CMS plan	100%	NA	0	0	NA
5d FCE coverage: minor facilities that are part of CMS plan	100%	NA	0	0	NA
5e Review of Title V annual compliance certifications	100%	82.2%	252	252	100%
7b3 Violations reported per HPV identified	100%	NA	6	6	100%
8a HPV discovery rate per major source universe	NA	3.3%	6	254	2.4%

State response None

Recommendation None

CAA Element 1 — Data

Finding 1-2 Area for State Attention

Summary VADEQ did not consistently put facilities out of compliance in AFS upon issuing an informal enforcement action. Only 56.7% of facilities that were issued informal enforcement actions were reported out of compliance in AFS for FY14.

Explanation Data metric 7b1 measures the state’s performance in reporting alleged violations upon the issuance of an informal enforcement action state-wide. VADEQ’s performance in this metric has steadily decreased during Round 3: from 81.5% in FY 2012 to 66.7% in FY 2013 to 56.7% in FY2014. VADEQ explained that prior to the modernization of the CEDS database, the compliance status had to be manually updated. When the CEDS database was modernized to mirror ICIS-Air, the compliance status for a facility was automated. In addition, ICIS-Air replaced AFS in October 2014. ICIS-Air no longer tracks a source level “compliance” status. Instead, agencies are to report a violation determination. This is reported by adding a case file and reporting Air violations using the violation type. VADEQ has also modernized their data system and modeled their enforcement file reporting structure on ICIS-Air. Finally, VADEQ told EPA that in response to EPA’s Federally-Reportable Violation (FRV) policy, VADEQ updated their environmental data system (CEDSAir) to require FRV criteria, air program, and pollutant to be entered before a NOV is issued to a CMS (major or 80% synthetic minor) facility. This structure mirrors the federal data system (ICIS) to ensure timely and complete upload of required FRV data.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	7b1 Alleged violations reported per informal enforcement actions	100%	69.4%	17	30	56.7%

State response None

Recommendation The Air Protection Division (APD) will conduct enhanced data oversight as it relates to reporting violations in ICIS-Air through the mini data metric analysis (DMAs) and quarterly timely and appropriate (T&A) meetings/calls. The enhanced data oversight will take place for a minimum period of one (1) year after the date of the final report or until the Region is satisfactorily meeting this metric.

VADEQ should ensure that staff has copies of the 2014 FRV Policy and conduct training to ensure reporting is done consistent with the Policy

CAA Element 1 — Data

Finding 1-3 Area for State Attention

Summary In the Piedmont Regional Office (PRO), VADEQ entered only 45.5% of its enforcement MDRs into AFS in a timely manner

Explanation For FY 2012 and FY 2013, VADEQ’s performance for this metric was in the 90th percentile. A review of the underlying data evaluated for this metric showed that the performance for the two (2) action types included in this metric were consistent ((i.e., action type “7C” (informal enforcement actions) – 88.6% and Action Type “8C” (formal enforcement actions) – 86.4%). However, when the data was separated into the six (6) VADEQ Regional Offices, the results showed that the PRO’s performance was only 45.5% (five (5) timely entries out of 11 entries), significantly lower than any other regional office. Upon removing PRO data from the data set, the state’s performance for this metric increased to 97.8% (45 timely entries out of 46 entries). Finally, VADEQ’s Central Office has determined that changes in staffing and resource prioritization since Round 2 of the SRF in VADEQ’s PRO resulted in a negative shift in the timely reporting of Enforcement MDRs.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	3b3 Timely reporting of Enforcement MDRs		100%	77.9%	5	11

State response None

Recommendation Within six (6) months from the date of the final report, VADEQ should update procedures and/or provide training to the PRO staff to ensure timely reporting of Enforcement MDRs.

The APD will conduct enhanced data oversight as it related to reporting of Enforcement MDRs in the PRO through the DMAs and quarterly timely and appropriate (T&A) meetings/calls. The enhanced data oversight will take place for a minimum period of one (1) year after the date of the final report or until the Region is satisfactorily meeting this metric.

CAA Element 2 — Inspections

Finding	Meets or Exceeds Expectations																																				
Summary	VADEQ met the negotiated frequency for compliance evaluations of the CMS sources and reviewed all of the Title V Annual Compliance Certifications scheduled to be reviewed. In addition, all CMRs reviewed provided sufficient documentation to determine facility compliance and document the FCE elements.																																				
Explanation	<p>Virginia completed all CMS commitments for majors and SM-80 sources in FY 2014.</p> <p>The review team found the CMRs to be extremely well-written and organized; compliance/non-compliance with each permit condition was documented.</p> <p>VADEQ has previously developed and utilized a standardized template to ensure consistent and complete documentation of FCE of CMS sources (i.e., CMR reports). VADEQ has also updated their environmental data system (CEDSAir) since Round 2 of EPA’s SRF to now also include many of the CMR requirements as required data fields in CEDSAir, which are then utilized to generate CMRs directly from the system. CEDSAir also provides a tool to provide which applicable requirements have not been addressed in a system report within a certain timeframe. This allows staff to ensure all remaining applicable requirements (i.e., those not addressed in a partial compliance evaluation) to be included in the final CMR (i.e., FCE report).</p> <p>EPA considers the CMR template, the subsequent incorporation of system mandated data collection, and the resulting system-generated reports to be good practices and excellent examples encouraging compliance with EPA’s CMS Policy.</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 and mega-sites</td> <td>100%</td> <td>88.6%</td> <td>120</td> <td>120</td> <td>100%</td> </tr> <tr> <td>5b FCE coverage: SM-80s</td> <td>100%</td> <td>89.9%</td> <td>84</td> <td>84</td> <td>100%</td> </tr> <tr> <td>5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan</td> <td>100%</td> <td>NA</td> <td>0</td> <td>0</td> <td>NA</td> </tr> <tr> <td>5d FCE coverage: minor facilities that are part of CMS plan</td> <td>100%</td> <td>NA</td> <td>0</td> <td>0</td> <td>NA</td> </tr> <tr> <td>5e Review of Title V annual compliance certifications</td> <td>100%</td> <td>82.2%</td> <td>252</td> <td>252</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a FCE coverage: majors and mega-sites	100%	88.6%	120	120	100%	5b FCE coverage: SM-80s	100%	89.9%	84	84	100%	5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan	100%	NA	0	0	NA	5d FCE coverage: minor facilities that are part of CMS plan	100%	NA	0	0	NA	5e Review of Title V annual compliance certifications	100%	82.2%	252	252	100%
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5d FCE coverage: minor facilities that are part of CMS plan	100%	NA	0	0	NA																																
5e Review of Title V annual compliance certifications	100%	82.2%	252	252	100%																																

	6a Documentation of FCE elements	100%	NA	24	24	100%
	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%	NA	24	24	100%
State response	None					
Recommendation	None					

CAA Element 3 — Violations

Finding 3-1 Meets or Exceeds Expectations

Summary VADEQ did a thorough and comprehensive job in making HPV determinations and accurately reporting HPV violations to AFS.

Explanation VADEQ made accurate HPV determinations on all of the 14 violations reviewed. Additionally, all six (6) informal enforcement actions that were associated with an HPV were accurately reported to AFS.

The HPV discovery rate at majors was below the national average. Supplemental files with violations were reviewed to determine if VADEQ is accurately applying the HPV policy. There were no instances of violations being inaccurately classified (i.e., HPV vs. non-HPV). This is reflected in VADEQ’s file review metric 8c performance.

Finally, 26 of 31 facility compliance determinations reviewed by the EPA review team were accurately reported to AFS. The five (5) compliance determinations not accurately reported to AFS were informal enforcement actions where the facility compliance status was not changed to “out of compliance”. This is addressed in finding 1-2.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a Accuracy of compliance determinations	100%	NA	26	31	83.9%
7b3 Alleged violations reported per HPV identified.	100%	75.3%	6	6	100%
8a HPV discovery rate at majors	NA	3.3%	6	254	2.4%
8c Accuracy of HPV determinations	100%	NA	14	14	100%

State response None

Recommendation None

CAA Element 4 — Enforcement

Finding 4-1 Meets or Exceeds Expectations

Summary VADEQ included corrective actions in formal responses and took timely and appropriate enforcement action consistent with the HPV policy.

Explanation All formal enforcement responses reviewed required the facility to return to compliance if they had not already done so at the time of the execution of the Consent Agreement. In addition, all enforcement responses reviewed by the EPA team were determined to be appropriate.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%	NA	12	12	100%
	10a HPV cases which meet the timeliness goal of the HPV Policy	100%	75.4%	5	5	100%
	10b Appropriate enforcement responses for HPVs	100%	NA	9	9	100.0%

State response None

Recommendation None

CAA Element 5 — Penalties

Finding 5-1 Meets or Exceeds Expectations

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

Explanation All of the penalty calculations reviewed included the gravity and economic benefit components and where applicable, documented the difference between the initial and final penalties. In general, the EPA review team found the penalty files to be complete and thorough.

Finally, all documentation of the penalties collected in FY 2014 was found in the files.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	11a Penalty calculations include gravity and economic benefit	100%	NA	12	12	100%
	12a Documentation on difference between initial and final penalty	100%	NA	10	10	100%
	12b Penalties collected	100%	NA	12	12	100%

State response None

Recommendation None

RCRA Findings

RCRA Element 1 — Data

Finding 1-1 Meets or Exceeds Expectations

Summary In 100% of the files reviewed, all mandatory data was entered into RCRAInfo and entered accurately.

Explanation In response to a national pharmaceutical case, VADEQ experienced a significant increase in generators notifying as LQGs. VADEQ developed a procedure to handle this increase of generator notifications, specifically for pharmaceutical/retail stores where a large number of stores notified at once.

All relevant data was entered into RCRAInfo for all files reviewed.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2a Long-standing secondary violators	--	--	5	--	--
2b Complete and accurate entry of mandatory data	100%	--	41	42	97.6%
5a Two-year inspection coverage for operating TSDFs	100%	88.5%	5	9	55.6%
5b Annual inspection coverage for LQGs	20%	20.1%	39	220	17.7%
5c Five-year inspection coverage for LQGs	100%	67.1%	191	220	86.8%
5d One-year inspection coverage for active SQGs	--	10.6%	279	3761	7.4%
5e1 Number of inspections at conditionally exempt SQGs	--	--	345	--	345
5e2 Number of inspections at transporters	--	--	25	--	25
5e3 Number of inspections at non-notifiers	--	--	3	--	3
5e4 Number of inspections at facilities not covered by metrics 2c through 2f3	--	--	369	--	369
7b Violations found during inspections	--	37.7%	83	282	29.4%
8a SNC identification rate	--	2%	11	282	3.9%
10a Timely enforcement taken to address SNC	80%	84.3%	7	9	77.8%

State response None

Recommendation None

RCRA Element 2 — Inspections

Finding 2-1 Meets or Exceeds Expectations

Summary VADEQ met or exceeded all inspection commitments made in the EPA/State agreement.

Explanation VADEQ and EPA coordinate efforts to maximize resources and ensure coverage of the RCRA inspection goals. VADEQ includes EPA’s inspection targets when developing their inspection plan. Both EPA and VADEQ’s inspections count towards the combined goal for RCRA inspections in Virginia. This workshare facilitates inspection coverage while allowing VADEQ efficient utilization of their resources. VADEQ combined with EPA, met the inspection commitments for annual and five (5) year inspection coverage for LQGs as well as two (2) year inspection coverage for Treatment, Storage and Disposal Facilities (TSDFs).

Taking into account the combined inspection coverage, the adjusted annual inspection rate for LQGs is 23.2% and the five (5) year inspection coverage for LQGs is 95%; exceeding the national averages. Of the 11 LQGs identified as not inspected during the five (5) year cycle; six (6) facilities were no longer LQGs during the review period; four (4) facilities had a site visit or focused compliance inspections; and only one (1) facility was not visited or inspected.

EPA and VADEQ agreed during the grant work plan negotiations and coordination of inspection targets that EPA would inspect all of the federal TSDFs in Virginia for FY14. EPA was unable to meet that commitment, and therefore, this should not reflect on the State’s TSDF inspection performance. Removing the facilities EPA committed to inspecting, the State met their TSD inspection commitment.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a Two-year inspection coverage of operating TSDFs	100%	88.4%	5	9	55.6%
5b Annual inspection coverage of LQGs	20%	20.1%	39	220	17.7%
5c Five-year inspection coverage of LQGs	100%	67.1%	191	220	86.8%
5d Five-year inspection coverage of active SQGs	--	10.6	279	3761	7.4%
5e1 Five-year inspection coverage of active conditionally exempt SQGs	--	--	345	--	345

	5e2 Five-year inspection coverage of active transporters	--	--	25	--	25
	5e3 Five-year inspection coverage of active non-notifiers	--	--	3	--	3
	5e4 Five-year inspection coverage of active sites not covered by metrics 2c through 2f3	--	--	369	--	369
State response	None					
Recommendation	None					

RCRA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations					
Summary	VADEQ performed high quality inspections and completed inspection reports in a timely manner.					
Explanation	<p>The RCRA reviewers found VADEQ completed inspection reports in a timely manner. Of the 42 files reviewed, the average time from inspection to completed report was 37 days.</p> <p>The RCRA reviewers found reports contained very detailed and comprehensive checklists as well as written narrative. In 41 of the 42 files reviewed, the inspection reports contained enough information to determine compliance. In the one instance the inspection report identified the presence of a hazardous waste tank but did not contain documentation that a hazardous waste tank was inspected.</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	--	--	41	42	97.6%
	6b Timeliness of inspection report completion	--	--	42	42	100%
State response	None					
Recommendation	None					

RCRA Element 3 — Violations

Finding 3-1 Meets or Exceeds Expectations

Summary Accurate compliance determinations were made in all cases. SNC determinations rates exceed national average.

Explanation Accurate compliance determinations were made in all cases reviewed. The reviewers did not find any instance where EPA disagreed with VADEQ's SNC/SV violation.

VADEQ's SNC rate of 3.9% exceeds the national average of 2%.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2a Long-standing secondary violators	--	--	2	--	2
7a Accurate compliance determinations	--	--	40	40	100%
7b Violations found during inspections	--	36.7%	83	282	29.4%
8a SNC identification rate	--	2%	11	282	3.9%
8c Appropriate SNC determinations	--	--	20	20	100%

State response None

Recommendation No Recommendation

RCRA Element 3 — Violations

Finding 3-2

Area for State Attention

Summary

VADEQ made SNC determinations in a timely manner 64% of the time.

Explanation

The frozen data does not reflect an accurate universe. The correct data should be “State N” = 9, “State D” = 14, “State %” = 64%.

The five (5) instances where the SNC determination did not meet the 150 day timeliness criteria occurred at the targeted pharmaceutical chain stores. In accordance with this targeting approach, the State conducted CEIs at five (5) of these chain stores during different dates within a two (2) week period and notified corporate headquarters of all violations under one (1) notice. The SNC determinations were delayed due to the complexity of the case and the need to coordinate the results of the five (5) evaluations conducted out of multiple regional offices throughout the State. All SNCs determinations were made within 179 days of inspection.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
8b Timeliness of SNC determinations	100%	85.2%	163	168	97%

State response

DEQ will work to ensure that timely SNC determinations will be made in the future. In this particular instance the SNC designation was delayed for a number of facilities that were involved in one complex case requiring an extended period for submittal of documents from the responsible party. It is DEQ policy to make timely SNC determinations and we will continue this policy in the future.

Recommendation

None

RCRA Element 4 — Enforcement

Finding Choose an item. **Meets or Exceeds Expectations**

Summary The RCRA reviewers found VADEQ took appropriate enforcement action and all enforcement actions returned violations to compliance.

Explanation

In all files reviewed where enforcement action was taken, the enforcement actions promoted return to compliance.

In the seven (7) instances where a formal enforcement action was taken (SNCs), the action contained injunctive relief to address all violations. In all instances, return to compliance was documented.

In 13 instances, VADEQ issued Warning Letters or other notices, 10 of which required a response to document the facility’s return to compliance. In three (3) cases, the Warning Letter acknowledged the facility had already returned to compliance and no further action was required. In all cases, return to compliance was documented.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	9a Enforcement that returns violators to compliance	--	--	20	20	100%
	10a Timely enforcement taken to address SNC	80%	84.3%	7	9	77.8%
	10b Appropriate enforcement taken to address violations	--	--	20	20	100%

State response None

Recommendation None

RCRA Element 5 — Penalties

Finding Choose an item. **Meets or Exceeds Expectations**

Summary The RCRA reviewer found VADEQ maintained proper documentation of penalty calculation and penalties collected.

Explanation In all seven (7) instances where a penalty was assessed, each instance contained penalty calculations including gravity and economic benefit. VADEQ followed their “Enforcement Guidance Memorandum No. 2-2006 (Revision 3), Civil Charges and Civil Penalties in Administrative Actions” for applying gravity and economic benefit to penalty calculations.

The difference between initial and final penalties were documented in all seven (7) files. Penalty collection was documented in six (6) of the seven (7) files reviewed. In a single case, the facility did not comply with the penalty order (paying \$8,400 out of a total penalty of \$10,000). VADEQ documented multiple attempts to contact the facility, with no response. VADEQ referred the case for collections.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	11a Penalty calculations include gravity and economic benefit	--	--	7	7	100%
	12a Documentation on difference between initial and final penalty	--	--	7	7	100%
	12b Penalties collected	--	--	6	7	85.7%

State response None

Recommendation None

Appendix

NPDES-CWA Program Delegation

The Commonwealth of Virginia's NPDES program consists of two (2) agencies delegated to implement the NPDES-CWA programs. EPA, reviewed the VADEQ and DMME. VADEQ consists of a Central Office located in Richmond, VA and six (6) regional offices. VADEQ is responsible for implementing the NPDES compliance and enforcement program for the following NPDES sectors: municipal and industrial wastewater; industrial and construction stormwater; and CAFOs. In addition, approximately half of the erosion and sediment control programs in the construction stormwater sector are delegated to localities across VA. DMME's Division of Mined Land Reclamation (DMLR), located in Big Stone Gap, VA, is responsible for implementing the compliance and enforcement program for the NPDES mining sector.

Clean Water Act-NPDES – Transfer of Delegation for NPDES MS4 and Stormwater Construction Programs

On July 2, 2013, the Environmental Protection Agency (EPA) approved the transfer of delegation for implementation of the federally authorized NPDES Municipal Separate (MS4) and construction stormwater permitting programs from the VADCR to VADEQ. Since 2005, Virginia operated bifurcated stormwater regulatory programs with VADEQ implementing the industrial stormwater program and VADCR implementing the MS4 and construction stormwater programs. The transfer served to consolidate NPDES stormwater management and nonpoint source pollution control programs in one agency.

Beginning in 2013, VADEQ and EPA Region III worked closely to coordinate the transition of the MS4 and construction stormwater programs from the VADCR and ensure VA stormwater program alignment with federal requirements. Since the stormwater program transfer, VADEQ has focused first on permit reissuance and also undertaken several initiatives to design and implement a comprehensive NPDES stormwater program including developing compliance and enforcement manuals, standard operating procedures and templates for the stormwater sector, modifying penalty policies, extensive staff training and outreach to the regulated community in the Commonwealth. Subsequent to the program transfer in 2013, amendments to the Virginia Stormwater Management Program adopted in 2014 by the Virginia General Assembly allowed localities to elect to implement their own stormwater management programs or “opt out” and leave the administration, implementation and enforcement of local stormwater programs to VADEQ. The practical implication of this legislative change expanded the construction stormwater universe under direct VADEQ permitting, compliance and enforcement oversight. As a result, VADEQ is responsible for implementation of approximately 50% of the local stormwater programs in the Commonwealth.

EPA conducted the first SRF Review of VADCR in 2010, and completed a targeted comprehensive Stormwater Program Review in 2011. Both reviews identified NPDES permitting and compliance issues with VADCR implementation of the stormwater programs.

Several “areas for improvement” were identified in the SRF report including data, inspection coverage, and timely and appropriate enforcement. VADEQ has made progress in building and integrating the MS4 and construction stormwater programs since program transfer and EPA and VADEQ continue to work together to address the SRF recommendations. For example, EPA and VADEQ are working to finalize an NPDES Data Management Strategy which will address stormwater NPDES data deficiencies identified in the VADCR portions of the Round 2 SRF report. In consideration of the recent transfer of the NPDES MS4 and construction stormwater programs to VADEQ, EPA will evaluate the VADEQ implementation of the MS4 compliance and enforcement program in the Round four VA SRF review.