

STATE REVIEW FRAMEWORK

Nashville/Davidson County, Tennessee

Clean Air Act Implementation in Federal Fiscal Year 2012

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

**Final Report
April 16, 2015**

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Executive Summary

Introduction

EPA Region 4 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Nashville/Davidson County Metro Public Health Department (MPHD).

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

- Enforcement actions bring sources back into compliance within a specified timeframe.
- MPHD considers gravity and economic benefit when calculating penalties, documenting the collection of penalties and any differences between initial and final penalty assessments.

Priority Issues to Address

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

- MPHD needs to improve the accuracy of data reported into the National Data System (formerly Air Facility Subsystem (AFS), but now ICIS-Air). Data discrepancies were identified in all of the files reviewed.
- The review of most Title V Annual Compliance Certifications (ACCs) were not recorded in AFS, and Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs) did not always include all required elements.

Most Significant CAA Stationary Source Program Issues

- The accuracy of enforcement and compliance data entered by MPHD in AFS needs improvement. The recommendation for improvement is for MPHD to document efforts to identify and address the causes of inaccurate Minimum Data Requirements (MDR) reporting and make corrections to existing data to address discrepancies identified by EPA. EPA will monitor progress through the annual Data Metrics Analysis (DMA) and other periodic data reviews.
- MPHD needs to ensure that FCEs and CMRs include all required elements and that ACC reviews are documented in ICIS-Air. The recommendation for improvement is for MPHD to submit and implement revised procedures which ensure that ACC reviews are recorded in ICIS-Air and FCEs and CMRs include all required elements. EPA will review sample CMRs provided by MPHD for 6 months to determine the adequacy of the revised procedures.

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I. Background on the State Review Framework

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

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

Reviews cover:

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

EPA conducts SRF reviews in three phases:

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

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

Each state's programs are reviewed once every five years. Local programs are reviewed less frequently, at the discretion of the EPA Regional office. The first round of SRF reviews began in FY 2004, and the second round began in FY 2009. The third round of reviews began in FY 2013 and will continue through 2017.

II. SRF Review Process

Review period: 2012

Key dates: November 15, 2013, letter sent to Local program kicking off the Round 3 review
December 3 – 5, 2013, on-site file review for CAA

Local Program and EPA key contacts for review:

	Nashville MPHD	EPA Region 4
SRF Coordinator	John Finke	Kelly Sisario, OEA Branch Chief
CAA	John Finke	Mark Fite, OEA Technical Authority

III. SRF Findings

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

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

There are three categories of findings:

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

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

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

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

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

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

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

Clean Air Act Findings

CAA Element 1 — Data											
Finding 1-1	Meets or Exceeds Expectations										
Summary	MDRs were entered timely into AFS, EPA’s national data system for air enforcement and compliance information.										
Explanation	<p>Data Metrics 3a2 and 3b2 indicated that MPH D entered MDR data for high priority violations (HPVs) and stack tests into AFS within the specified timeframe.</p> <p>Data Metric 3b1 indicated that 61.2% of compliance monitoring MDRs (71 of 116) were reported timely into AFS. However, of the 45 late entries, 38 were non-federally reportable minor sources (dry cleaners). If these dry cleaners are excluded from the metric calculation, the revised metric is 91% (71 of 78), which exceeds the national average and approaches the national goal.</p> <p>Data Metric 3b3 indicated that 2 of 3 (66.7%) enforcement related MDRs were entered into AFS within 60 days. The one late entry is considered an isolated incident, so EPA considers that the timeliness of MPH D’s data entry meets expectations.</p>										
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th></th> </tr> </thead> <tbody> <tr> <td>3a2 Untimely entry of HPV determinations</td> <td></td> </tr> <tr> <td>3b1 Timely reporting of compliance monitoring MDRs</td> <td></td> </tr> <tr> <td>3b2 Timely reporting of stack test dates and results</td> <td></td> </tr> <tr> <td>3b3 Timely reporting of enforcement MDRs</td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description		3a2 Untimely entry of HPV determinations		3b1 Timely reporting of compliance monitoring MDRs		3b2 Timely reporting of stack test dates and results		3b3 Timely reporting of enforcement MDRs	
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3b3 Timely reporting of enforcement MDRs											
State response	Entry of data into ICIS-Air will be standardized to occur on the first of each month, if not sooner, to ensure timely entry of data. All inspection and enforcement data is now being entered on or prior to the first of the month following the inspections.										
Recommendation											

CAA Element 1 — Data

Finding 1-2	Area for State Improvement				
Summary	The accuracy of MDR data reported by MPHD into AFS needs improvement. At least one discrepancy between the files and AFS was identified in each of the files reviewed.				
Explanation	Metric 2b indicated that each of the 15 files reviewed had one or more discrepancies between information in the files and data entered into AFS. The majority of inaccuracies related to facility information (NAICS, name, address, CMS info, pollutants etc.) and missing or inaccurate activity data (e.g. ACCs, NOVs, FCEs, penalties, etc.). Several files also revealed missing or inaccurate air programs or subparts for applicable Maximum Achievable Control Technology (MACT) or New Source Performance Standards (NSPS) regulations in AFS. Finally, two sources had an inaccurate compliance status code. This incorrect data in AFS could potentially hinder EPA’s oversight and targeting efforts and/or result in inaccurate information being released to the public.				
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th></th> </tr> </thead> <tbody> <tr> <td>2b Accurate MDR data in AFS</td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description		2b Accurate MDR data in AFS	
Metric ID Number and Description					
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State response	The discrepancies identified by EPA have been or will be corrected in ICIS-Air.				
Recommendation	By April 30, 2015, MPHD should provide documentation to EPA concerning efforts to identify and address the causes of inaccurate MDR reporting. MPHD should also make corrections to existing data to address the discrepancies EPA identified and ensure that in the future, MDRs are accurately entered into ICIS-Air. If by June 30, 2015, EPA’s review determines that MPHD’s efforts appear to be adequate to meet the national goal, the recommendation will be considered complete.				

CAA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations		
Summary	MPHD met the negotiated frequency for inspection of Major and Synthetic Minor 80% (SM80) sources.		
Explanation	MPHD ensured that each major source was inspected at least once every 2 years, and each SM-80 source was inspected at least once every 5 years. Although Metric 5a indicates that only half of major sources (6 of 12) slated for inspection in FY2012 were inspected, all but one of the sources not inspected are permanently closed. The remaining source had an FCE in FY2011 (3/8/11), so it would not have been due for an FCE until FY2013, and the corrected percentage for major sources inspected is 100%. Similarly, Metric 5b indicates that 83.6% of SM80 sources (46 of 55) slated for inspection in FY2012 were inspected. However, all of the sources that were not inspected are coded as permanently closed in AFS, so the corrected percentage of SM80 sources inspected is 100%.		
Relevant metrics	Metric ID Number and Description		
	5a FCE coverage: majors and mega-sites		
	5b FCE coverage: SM-80s		
State response			
Recommendation			

CAA Element 2 — Inspections

Finding 2-2	Area for State Improvement		
Summary	The review of most Title V ACCs was not recorded in AFS, and FCEs and CMRs did not always include all required elements.		
Explanation	<p>Metric 5e indicates that only 1 of 12 (8.3%) Title V ACCs were reviewed by the local program. The program advises that these reviews were conducted, but they were not recorded in AFS.</p> <p>Metric 6a indicates that 11 of 14 (78.6%) FCEs reviewed included all seven elements required by the Clean Air Act Stationary Source Compliance Monitoring Strategy (CMS Guidance). The remaining three FCEs were missing one of the following elements: assessment of process parameters; visible emissions observations; or review of records & reports.</p> <p>Metric 6b indicates that 9 of 14 (64.3%) CMRs included all seven elements required by the CMS Guidance. The remaining five CMRs were missing one or more of the following required elements: facility information; observations and recommendations; applicable requirements; or a description of compliance monitoring activities conducted by the inspector.</p>		
Relevant metrics	Metric ID Number and Description		
	5e Review of Title V annual compliance certifications		
	6a Documentation of FCE elements		
	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance		
State response	<p>All ACC were received and reviewed. Procedures will be developed to ensure more timely entry of ACC review into ICIS-Air. All ACC data is now entered into ICIS-Air as the ACC are received. MPH has developed a spreadsheet to assist in tracking ACCs and Quarterly/Semi-Annual Reports.</p> <p>Coordinate with inspectors on procedures to completely fill out inspection reports. Develop and implement procedures to review each inspection report received for completeness before entering into AFS. Revise inspection forms to eliminate extraneous or outdated entries and ensure that all CMS required entries are present.</p>		

Recommendation

By June 30, 2015, MPHD should submit and implement revised procedures to EPA which ensure that ACC reviews are recorded in ICIS-Air and FCEs and CMRs include all elements required by the CMS Guidance. Through December 31, 2015, MPHD should submit sample CMRs to EPA for review. If based on this review EPA determines that the revised procedures are adequate to meet the national goal, the recommendation will be considered completed.

CAA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations								
Summary	MPHD made accurate compliance determinations for both HPV and non-HPV violations.								
Explanation	<p>Metric 7a indicated that MPHD made accurate compliance determinations in 12 of 14 files reviewed (85.7%).</p> <p>Metric 8a indicated that the HPV discovery rate for majors (0%) was below the national average of 4.3%. A low HPV discovery rate is not unusual for small local programs. Although there were no HPV determinations during the review year, Metric 8c indicates that an HPV designated in the prior year and addressed in FY2012 was evaluated during the file review, and EPA confirmed the accuracy of that determination.</p>								
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th></th> </tr> </thead> <tbody> <tr> <td>7a Accuracy of compliance determinations</td> <td></td> </tr> <tr> <td>8a HPV discovery rate at majors</td> <td></td> </tr> <tr> <td>8c Accuracy of HPV determinations</td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description		7a Accuracy of compliance determinations		8a HPV discovery rate at majors		8c Accuracy of HPV determinations	
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8a HPV discovery rate at majors									
8c Accuracy of HPV determinations									
State response	<p>All ACC were reviewed. Deviations and missing data were determined to have been minor or had been adequately explained and addressed by the sources. In the future, procedures will be put in place to ensure better documentation of the review process and of any actions taken or determinations made by this department.</p> <p>All ACC data is now entered into ICIS-Air as the ACC are received. MPHD has developed a spreadsheet to assist in tracking ACCs and Quarterly/Semi-Annual Reports.</p>								
Recommendation									

CAA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations		
Summary	Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.		
Explanation	<p>Metric 9a indicated that all formal enforcement actions reviewed brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order.</p> <p>Metric 10a indicated that the one HPV concluded in the review year (FY2012) was addressed in 297 days. While this slightly exceeds the specified timeframe of 270 days, this is not considered a significant exceedance. In addition, Metric 10b indicated that appropriate enforcement action was taken to address all HPVs.</p>		
Relevant metrics	Metric ID Number and Description		
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe		
	10a Timely action taken to address HPVs		
	10b Appropriate enforcement responses for HPVs		
State response			
Recommendation			

CAA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations	
Summary	MPHD considered gravity and economic benefit when calculating penalties; the collection of penalties and any differences between initial and final penalty assessments was also documented.	
Explanation	Metric 11a indicated that MPHD considered gravity and economic benefit in both penalty calculations reviewed (100%). Metric 12a also indicated that both penalty calculations reviewed (100%) documented any difference between the initial and the final penalty assessed. Finally, Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file.	
Relevant metrics	Metric ID Number and Description	
	11a Penalty calculations include gravity and economic benefit	
	12a Documentation on difference between initial and final penalty	
	12b Penalties collected	
State response		
Recommendation		