

STATE REVIEW FRAMEWORK

NEVADA

**CLEAN AIR ACT, CLEAN WATER ACT, AND RESOURCE
CONSERVATION AND RECOVERY ACT
IMPLEMENTATION IN FEDERAL FISCAL YEAR 2015**

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9, SAN FRANCISCO**

**FINAL REPORT
FEBRUARY 13, 2018**

Executive Summary

Introduction

The U.S. Environmental Protection Agency (EPA) Region IX conducted a State Review Framework (SRF) enforcement program oversight review of the Nevada Division of Environmental Protection (NDEP) in 2016. This report documents the findings of that review.

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

Areas of Strong Performance

Air:

- NDEP evaluates air Compliance Monitoring Strategy (CMS) sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The Compliance and Enforcement Section and its current supervisor have created a plan forward to address data entry issues.

Water:

- NDEP exceeded EPA's NPDES inspection goals and national averages for inspection coverage in all categories of NPDES regulated facilities in FY 2015. NDEP inspected 100 percent of major facilities, 24 percent of minor facilities and more than 20 percent of stormwater dischargers.
- No major facilities in Significant Noncompliance (SNC).
- All formal and informal actions reviewed included specific requirements with timetable to return violations to compliance.

RCRA:

- NDEP met or exceeded EPA's Large Quantity Generator (LQG) annual and 5-year inspection goals. NDEP inspected 100% of LQG's during 5-year inspection coverage period, while the national average was 56.1%. FY2015 inspection coverage was 89.4% of NV LQG facilities. The national average was 19.6%. NDEP also met the two-year 100% inspection coverage required for Treatment, Storage and Disposal facilities, exceeding the national average of 94.8%.

Priority Issues to Address

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

Air:

- Data Reporting/Timeliness: This issue was cited in the Round 2 Review and continues. Some CAA informal enforcement actions did not return facilities to compliance.
- Inaccurate CMS source universe.
- Lack of Federally-Reportable Violation (FRV) reporting/Inaccurate FRV and High Priority Violation (HPV) reporting/identification.
- Low penalties. NDEP has a penalty policy similar to EPA's, but does not take into consideration economic benefit in their penalty calculation. The state should begin to account for this, as appropriate, to ensure a level playing field.

Water:

- NDEP did not enter formal enforcement actions or single event violations (SEVs) at major facilities into EPA's ICIS-NPDES database as required by EPA's data management policies.
- Three of four penalty calculations assessed did not include an economic benefit component.
- EPA recommends NDEP develop a standardized inspection checklist to more accurately demonstrate inspection results.

RCRA:

- NDEP's penalty calculations did not include an explanation (e.g., below minimum threshold) when economic benefit for non-compliance was not included in the proposed penalty.
- NDEP is not documenting in the enforcement case file Significant Noncompliance (SNC) determinations, which are required by its inspection and enforcement policy and procedures for formal enforcement penalty actions.

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Background on the State Review Framework

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

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

Reviews cover:

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

EPA conducts SRF reviews in three phases:

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

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

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

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

SRF Findings

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

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

There are three categories of findings:

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

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

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

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

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

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

STATE REVIEW FRAMEWORK

Nevada

Clean Air Act Implementation in Federal Fiscal Year 2015

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

**Final Report
February 13, 2018**

Executive Summary

Introduction

The U.S. Environmental Protection Agency (EPA) Region IX Air & TRI Enforcement Office conducted a State Review Framework (SRF) enforcement program oversight review of the Nevada Division of Environmental Protection (NDEP).

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

Areas of Strong Performance

- NDEP evaluates air Compliance Monitoring Strategy (CMS) sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- The Compliance and Enforcement Section and its current supervisor have created a plan forward to address data entry issues.

Priority Issues to Address

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

- Data Reporting/Timeliness: This issue was cited in the Round 2 Review and continues. Some CAA informal enforcement actions did not return facilities to compliance.
- Inaccurate CMS source universe.
- Lack of Federally-Reportable Violation (FRV) reporting/Inaccurate FRV and High Priority Violation (HPV) reporting/identification.
- Low penalties. NDEP has a penalty policy similar to EPA's, but does not take into consideration economic benefit in their penalty calculation. The state should begin to account for this, as appropriate, to ensure a level playing field.

SRF Review Process

Review period: FY 2015

Key dates:

- Kickoff letter sent to NDEP: March 18, 2016
- On-site CAA file review: May 10-12, 2016
- Draft report sent to NDEP: August 2017
- Report finalized: February 2018

State and EPA key contacts for review:

NDEP

- Jeffrey Kinder, Bureau Chief, Bureau of Air Pollution Control
- Travis Osterhout, P.E., Program Manager, Compliance and Enforcement Branch

EPA Region 9

- Matt Salazar, Manager, Air & TRI Office, Enforcement Division
- Andrew Chew, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Nathan Dancher, Case Developer/ Inspector, Air & TRI Office, Enforcement Division
- Jennifer Sui, AFS Coordinator, Information Management Section, Enforcement Division
- Robert Lischinsky, Office of Compliance, Office of Enforcement and Compliance Assistance
- Jonathan Pettit, Office of Compliance, Office of Enforcement and Compliance Assurance

Clean Air Act Findings

Element 1 — Data	
Finding 1-1	Area for State Improvement
Summary	The File Review indicated that information reported into the AFS/ICIS-Air data system was not consistent with the information found in the files reviewed.
Explanation	<p>Review Metric 2b evaluates the completeness and accuracy of reported Minimum Data Requirements (MDRs) in AFS. Timeliness is measured using the date the activity is achieved and the date it is reported to AFS. While the national goal for accurately reported data in AFS is 100%, only 32.0% of reviewed data in the files was accurately reported. Inaccuracies were related to facility information (incorrect names, addresses, contact phone numbers, Compliance Monitoring Strategy [CMS] information, pollutants, operating status, etc.) and missing or inaccurate activity data (e.g., incorrect Full Compliance Evaluation [FCE] dates entered. Stack test results were not reported to AFS/ICIS-Air). Incorrect data in ICIS-Air potentially hinders targeting efforts and results in inaccurate information being released to the public.</p> <p>Metric 3a2 measures whether High Priority Violation (HPV) determinations are entered into AF3S/ICIS-Air in a timely manner (within 60 days) in accordance with the AFS Information Collection Request (AFS ICR) in place during FY 2016. The metric indicates that there were no HPVs. Upon discussion with the Compliance and Enforcement Section, this was due to uncertainty regarding the HPV policy.</p> <p>Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual Compliance Certifications). Out of 23 individual actions, 0 were reported within 60 days (0.0%). This is below the national average and the national goal of 100%.</p> <p>Metric 3b2 evaluates whether stack test dates and results are reported within 120 days of the stack test. The national goal for reporting results of stack tests is to report 100% of all stack tests within 120 days. Out of 62 stack tests, none were reported within 120 days (0.0%). This is below the national average and the national goal.</p> <p>Metric 3b3 measures timeliness for reporting enforcement-related MDRs within 60 days of the action. No actions were reported by NDEP, despite</p>

	having issued one Notice of Violation. Out of the 1 enforcement MDR reporting, 0 were reported within 120 days (0%), which is below the national average and below the national goal of 100%.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b- Accurate MDR Data in AFS	100%		8	17	32.0%
	3a2- Untimely Entry of HPVs	0	99.6%	0	0	N/A
	3b1 – Timely Reporting of Compliance Monitoring MDRs	100%	64.2%	0	23	0.0%
	3b2 – Timely Reporting of Stack Test Dates and Results	100%	64.5%	0	62	0.0%
	3b3 – Timely Reporting of Enforcement MDRs	100%	56.4%	0	0	N/A
State Response	<p>NDEP-BAPC’s Compliance & Enforcement Branch (C&E) held a LEAN event the week of August 21, 2017 to review our current processes and develop new processes that will ensure we gather all data required for reporting to the EPA through ICIS-Air. While we were not able to cover the entire scope of C&E’s responsibilities in one week, we are planning to hold additional LEAN events in the future to continue developing our program.</p> <p>The C&E Supervisor has initiated reviews of all EPA Guidance documents (including the HPV and FRV documents) provided by EPA during the SRF and plans to implement staff trainings for each of the documents on or before December 31, 2017.</p> <p>The air bureaus, as a whole, have initiated a plan to develop a new, more functional database that will include Electronic Data Transfers (EDT) for automatic reporting to ICIS-Air. The planned completion date of the software development to allow EDT to ICIS-Air is June 30, 2018 which corresponds to our deadline requirement in the grant funding for the project. After June 30, 2018, the NDEP-BAPC plans to utilize EDT for automatic reporting to ICIS-Air and will report all data from October 1, 2017 to present. Additionally, the NDEP-BAPC will also go back to October 1, 2017 and electronically report important enforcement actions (notices of violations, settlement agreements, etc.) that the public would be most interested in.</p>					

Recommendation

EPA has recommended that NDEP revise their processes for reporting to EPA. For example, Federally-Reportable Violations (FRVs) are to be reported to ICIS-Air within 60 days of the FRV determinations. Reporting into our data system ICIS-Air, may help with obtaining more timely data.

- We recommend within 180 days of issuance of the final report, NDEP should provide draft revised reporting processes to Region IX for review. Once NDEP begins implementing the revised processes, Region IX will review the reported data throughout FY 2018. If the data is timely, complete, and accurate, the recommendation will be deemed completed at the end of the Fiscal Year.
- We recommend within 180 days of issuance of the final report, NDEP put processes in place to ensure timely, complete, and accurate reporting of stack tests results and submit a memo describing the process to Region IX. Region IX will review the memo and a sample of the stack test results to ensure NDEP has successfully satisfied the criteria.
- NDEP should provide copies of both High Priority Violation and Federally-Reportable Violation (HPV and FRV) policies to all relevant managers/staff (e.g., inspectors, case developers, section chiefs) and conduct training to ensure managers/staff are familiar and knowledgeable of the policies. The training should take place within 60 days following the final SRF report being completed, and EPA should be informed of the date of completion. Region IX will provide assistance with the training, as needed.
- EPA also recommends that NDEP complete its EDT (electronic data transfer) within 180 days of issuance of the final report. NDEP should continue (or resume) manual entry until the EDT is complete. All missing data from the time that NDEP stopped reporting should be entered by the same 180 days that is mentioned above.

Element 2 — Inspections/Evaluations

Finding 2-1	Area for State Improvement																								
Summary	NDEP’s Compliance Monitoring Strategy (CMS) source universe (number of Majors, SM80s, and Megas) was inaccurate and needs to be corrected and regularly updated.																								
Explanation	<p>This Element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. NDEP met the national goal for the relevant metrics.</p> <p>NDEP met the negotiated frequency for conducting Full Compliance Evaluations (FCEs) of major and SM80s. NDEP ensured each major source was evaluated with an FCE once every two years and each SM80 once every five years.</p> <p>Note: The 100% achievement rate noted in the table below differs from what was calculated using the “frozen data set”, because upon review of the reported frozen data, we found the state had not accurately reported the CMS source universe, nor reported the entire universe of their inspections into ICIS-Air. Upon further investigation, it was determined that all required inspections had been conducted. NDEP has agreed to look into the inaccurate CMS source universe to ensure that each facility is categorized accurately. NDEP should revisit the CMS plan on a regular basis and update for accuracy.</p> <p>EPA commends NDEP for full compliance evaluations at major facilities, an impressive accomplishment given the distance and complexities of the sources they regulate. NDEP goes beyond the minimum frequencies, and inspects sources more often than EPA’s CMS policy indicates. If NDEP believes its resources can be put to better use, EPA can approve alternative CMS plans that are not completely consistent with CMS recommended evaluation frequencies to allow resource shifts to other sources of concern, if needed.</p>																								
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>5a – FCE Coverage Majors</td> <td>100%</td> <td>63.2%</td> <td>29</td> <td>29</td> <td>100%</td> </tr> <tr> <td>5b – FCE Coverage SM80s</td> <td>100%</td> <td>79.5%</td> <td>4</td> <td>4</td> <td>100%</td> </tr> <tr> <td>5c – FCE Coverage CMS non-SM80s</td> <td>100%</td> <td>42.6%</td> <td>16</td> <td>16</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	100%	63.2%	29	29	100%	5b – FCE Coverage SM80s	100%	79.5%	4	4	100%	5c – FCE Coverage CMS non-SM80s	100%	42.6%	16	16	100%
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5c – FCE Coverage CMS non-SM80s	100%	42.6%	16	16	100%																				

State Response	NDEP-BAPC submitted a Compliance Monitoring Strategy (CMS) Plan for Federal Fiscal Years FY17-FY22 on September 26, 2016, well before the recommended date of October 1, 2017. EPA agreed and signed the plan on March 9, 2017. After EPA’s visit to conduct the SRF in May 2016, the NDEP-BAPC understood that there were errors, reviewed our source universe, and compiled a new list for inclusion in the CMS plan. The new list was submitted to EPA on February 28, 2017. The NDEP-BAPC plans to continue regular reviews of the source universe and plans to update the information as necessary based on the current status of permits.
Recommendation	<p>EPA recommended in the draft SRF report that NDEP correct their CMS universe, and NDEP did so prior to issuance of the final report. EPA believes the CMS source universes and CMS plan are up to date as of the finalization of this report. EPA encourages continuous updating of the universe as necessary, and that NDEP update ICIS with the correct source universe within 180 days of issuance of the final report. Region 9 will continue to monitor this status with NDEP at periodic agency meetings/conference calls. If status remains positive, this recommendation will be closed within 180 days of the date of this final report.</p> <p>In addition, several CMS sources were mistakenly reported with an “overdue” status. As above, we recommend that NDEP correct this within 180 days of issuance of the final report.</p>

Element 2 — Inspections/Evaluations

Finding 2-2	Area for State Improvement
Summary	NDEP completed the required reviews for each Title V Annual Compliance Certification (ACC), however NDEP had not reported the entire universe into ICIS-Air.
Explanation	This Element evaluates whether the delegated agency has completed the required review for Title V Annual Compliance Certifications. NDEP completed the required reviews for each of Title V Annual Compliance Certifications.

	<p>The 100% achievement rate noted in the table below differs from what was calculated using the “frozen data set”, because upon review of the reported frozen data, we found that NDEP had not reported the entire universe of their reviews into ICIS-Air. NDEP has agreed to look into these inaccuracies, and correct the inputted information.</p> <p>We recommend NDEP report all the certifications in ICIS-AIR.</p>												
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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
5e – Review of TV ACCs	100%	39.1%	31	31	100%								
State Response	See NDEP Response under Finding 1-1 above.												
Recommendation	We recommend that NDEP correct the data that was described under the recommendations for Element 1, as well as report all ACCs. These issues should be addressed within 180 of issuance of the final report.												

Element 2 — Inspections/Evaluations

Finding 2-3	Area for State Attention
Summary	Overall, the NDEP compliance monitoring reports (CMRs) provided were adequate, but small additions of relevant information may make them more useful to inspectors.
Explanation	<p>EPA appreciates the process that NDEP has done to increase the efficiency and effectiveness of their inspection report format.</p> <p>Some reports lack sufficient information to have a full understanding of the inspectors’ activities while on-site and to be able to make a strong enforcement case.</p> <p>Not all the reports include enforcement history which is considered to be a “basic element” that should be included (as discussed in the CMS Policy). The report format/template should be updated to include an enforcement history section.</p>

The statement of a facility being “in compliance” should be removed from all inspection reports (CMRs) and instead language stating “no violations seen at this time” should be used. Inspectors should not be including a “Finding” within the report – only observations and recommendations.

Twenty-five NDEP compliance monitoring reports were reviewed under this Element. In reviewing some of the reports, it is unclear if all 7 CMR elements as discussed in the CMS policy were addressed in the reports. Reviewers found 22 inspections were fully documented.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	6a – Documentation of FCE Elements	100%		23	25	92.0%
6b – CMRs/Sufficient Documentation to Determine Compliance	100%		22	25	88.0%	

State Response During the C&E LEAN event on the week of August 21, 2017, the CMR’s were a focus for improvement. An updated template was developed to address the EPA’s concerns with a new section being added to ensure that facility enforcement history is included, and the “Finding” section being removed, as well as other minor changes to better suit current inspection activities. The NDEP-BAPC plans to use the statement “no violations seen at this time” in lieu of “in compliance” in all future CMRs.

Recommendation None required.

Element 3 — Violations

Finding 3-1 **Area for State Improvement**

Summary In general, compliance determinations are accurately made; however, they are often untimely reported into ICIS-Air based on the CMRs reviewed and other compliance monitoring information.

<p>Explanation</p>	<p>Metric 7a is designed to evaluate the overall accuracy of compliance determinations and Metric 8c focuses on the accurate identification of violations that are determined to be HPVs.</p> <p>For 7a, in 24 out of 25 of the inspections, there was enough information to show NDEP made appropriate compliance determinations.</p> <p>NDEP has not been reporting any violations as High Priority Violations or Federally-Reportable Violations (HPVs or FRVs). However, as we discussed with NDEP, both the FRV and HPV Policies have been revised. NDEP is now becoming familiar with both policies.</p> <p>NDEP should provide copies of the HPV and FRV policies to all relevant managers/staff (e.g., inspectors, case developers, section chiefs) and have training to ensure managers/staff are familiar with and knowledgeable of the policies. The training should take place within 240 days following the final SRF report being issued. EPA Region IX will provide assistance with the training, as needed.</p>																		
<p>Relevant metrics</p>	<table border="1"> <thead> <tr> <th data-bbox="483 951 1000 1024">Metric ID Number and Description</th> <th data-bbox="1003 951 1073 1024">Natl Goal</th> <th data-bbox="1076 951 1179 1024">Natl Avg</th> <th data-bbox="1182 951 1235 1024">State N</th> <th data-bbox="1239 951 1308 1024">State D</th> <th data-bbox="1312 951 1416 1024">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1029 1000 1102">Metric 7a – Accurate Compliance Determinations</td> <td data-bbox="1003 1029 1073 1102">100%</td> <td data-bbox="1076 1029 1179 1102"></td> <td data-bbox="1182 1029 1235 1102">24</td> <td data-bbox="1239 1029 1308 1102">25</td> <td data-bbox="1312 1029 1416 1102">96.0%</td> </tr> <tr> <td data-bbox="483 1106 1000 1180">Metric 8c – Accuracy of HPV Determinations</td> <td data-bbox="1003 1106 1073 1180">100%</td> <td data-bbox="1076 1106 1179 1180"></td> <td data-bbox="1182 1106 1235 1180">0</td> <td data-bbox="1239 1106 1308 1180">0</td> <td data-bbox="1312 1106 1416 1180">N/A</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	Metric 7a – Accurate Compliance Determinations	100%		24	25	96.0%	Metric 8c – Accuracy of HPV Determinations	100%		0	0	N/A
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Metric 7a – Accurate Compliance Determinations	100%		24	25	96.0%														
Metric 8c – Accuracy of HPV Determinations	100%		0	0	N/A														
<p>State Response</p>	<p>See NDEP response under Finding 1-1 above.</p>																		
<p>Recommendation</p>	<p>NDEP should ensure that all enforcement responses (Formal Notice & Finding of Violation; Field Citation; Notice of Alleged Air Quality Violations (NOAVs); warning; and Informal NOV's) are reported into ICIS-Air as required in the ICR within 90 days of the final SRF report being issued.</p> <p>As stated in the HPV Policy, Region IX has offered to have calls with NDEP to discuss potential HPVs (as well as any issues concerning FRVs and CMS implementation). These can occur on a regular basis (monthly calls) to discuss any relevant reporting issues.</p>																		

Region IX will be reviewing FRV/HPV determinations/reporting throughout FY 2017 and early FY18 and if Region IX sees that such determinations/reporting is accurate, the Recommendation will be deemed completed by June 30, 2018.

Within 180 days following completion of the final SRF Report, NDEP should revise their processes for ensuring timely notification of HPVs. The revised processes should be sent to Region IX for review. If notifications are timely throughout FY 2017 and early FY2018, this Recommendation would be considered completed by June 30, 2018.

Element 4 — Enforcement

Finding 4-1

Area for State Attention

Summary

The one enforcement action available for review in this period did not require a timeline for corrective action to return the facility to compliance. EPA believes additional formal enforcement would be appropriate based on review of other facility files. NDEP did not report HPVs.

Explanation

EPA was only able to review one formal enforcement action for Barrick Goldstrike Mine. NDEP does not have a large source universe, however, there were other instances where EPA's file review found facilities for which EPA believes formal enforcement and penalties would be appropriate. For example, there was one non-Title V facility with significant and lengthy violations, but no penalty actions yet. EPA welcomes the opportunity to discuss these facilities with NDEP in greater detail.

NDEP should ensure that all enforcement responses (Formal Notice & Finding of Violation; Field Citation; and Informal NOV) return facilities to compliance and are sufficient to be an appropriate response.

EPA recommends that within 365 days following completion of the final SRF Report, NDEP revise their processes for ensuring facilities come into compliance after actions. The revised processes should be sent to Region IX for review.

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

Metric 10b is designed to evaluate the extent to which the agency takes appropriate enforcement responses for HPVs. Since there were no HPVs, this was not evaluated.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a – Formal Enforcement Returns Facilities to Compliance	100%		0	1	0.0%
10a – Timely Action Taken to Address HPVs		73.2%	0	0	N/A
10b – Appropriate Enforcement Responses for HPVs		9.9%	0	0	N/A

State Response

During the tenure of the current NDEP-BAPC management (June 2015-Present), the NDEP-BAPC has worked diligently to take enforcement action when appropriate, assess penalties as necessary, and follow through to ensure that the facilities have come into compliance. For the few facilities that have not come into compliance, the BAPC has initiated further, more aggressive enforcement actions in an effort to gain compliance, and continues to monitor the progress regularly. Development of a process for ensuring facilities come into compliance after enforcement actions is intended to be a focus during our future improvement activities and is planned to be submitted as recommended.

The NDEP-BAPC notes that an example of a recent enforcement actions settled through Consent Decree was submitted to EPA Region IX. The action resulted in installation of a new air pollution control device as well as monetary penalties. EPA Region IX management has given a favorable response to the Consent Decree results as well as the NDEP-BAPC’s enforcement efforts given during regular quarterly calls.

	Development of a process for FRV and HPV reporting is also intended to be a focus during our future improvement activities and is intended to be submitted as recommended.
Recommendation	None required.

Element 5 — Penalties

Finding	Area for State Improvement
Summary	NDEP has a penalty policy somewhat similar to EPA's, but does not consistently take into account economic benefit. NDEP should begin to include economic benefit in their penalty amounts to ensure penalties serve as a deterrent to future violations and that enforcement is handled somewhat consistently from state to state with similar penalties for the same violation.
Explanation	<p>The File Review indicated that the penalties NDEP assesses does not take into account economic benefit. Economic benefit is important to include in the penalty because it takes into account the monetary benefit an institution receives by not implementing the appropriate measures required to meet regulations.</p> <p>Metric 12a is designed to evaluate the extent to which the agency documents the rationale for the difference between initial and final penalty. In the one case reviewed, the initial and final penalty amounts were the same. If NDEP should have this situation occur in the future, they should write a memo to the file including a brief rationale.</p> <p>Metric 12b is designed to evaluate whether there is documentation that the final penalty was collected. Upon review of the file, there was no receipt of the final payment being collected, however during interviews, it was understood that the collection of penalty is not done by them, but by the Nevada State Environmental Commission (SEC). It is recommended that NDEP begin to request a form of receipt from the SEC and include that in the file within 90 days of receiving this report (assuming this process has not already been occurring).</p> <p>Penalty calculations developed by NDEP should include an economic benefit component, or justification for the component not being included in the penalty. In addition, as EPA mentioned when talking with the</p>

inspectors and managers, NDEP should include a receipt of any penalty collected to include in the case file.

NDEP should update their penalty policy and send it to Region IX for review within 90 days of receiving this report. In addition, the NDEP staff should be trained on the updated penalty policy within 60 days after the penalty policy has been reviewed by Region IX.

Throughout FY 2017, Region IX will be reviewing penalties to ensure that they are consistent with EPA penalty policy (including economic benefit and gravity), as well as noting whether there is documentation of penalty collection.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a – Penalty Calculations Reviewed that Document Gravity and Economic Benefit	100%		0	1	0.0%
12a – Documentation of Rationale for Difference Between Initial and Final Penalty	100%		0	0	N/A
12b – Penalties Collected	100%		1	1	100.0%

State Response

The C&E Supervisor, along with NDEP staff from other bureaus attended the EPA sponsored “Financial Aspects of Enforcement Actions” course given by Industrial Economics, Inc. in Sacramento, California on May 31-June 1, 2017. The NDEP-BAPC is currently evaluating state, NDEP, and internal policies to make a determination on how to best implement an economic benefit component into future penalties. A review of the current NDEP-BAPC penalty policy is intended to be a focus during our future improvement activities and a revised policy is intended to be submitted at a future date.

Recommendation

Penalty calculations for settlement offers developed by NDEP should include an economic benefit component, or justification for the component not being included in the penalty. EPA and NDEP will routinely discuss penalties at state-EPA meetings or calls, and randomly review case files, as appropriate, to determine that economic benefit is being adequately addressed in penalty determinations. If so, EPA will close out this recommendation within a year of the date of this final report.

STATE REVIEW FRAMEWORK

Nevada

Clean Water Act Implementation in Fiscal Year 2015

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

**Final Report
February 13, 2018**

Executive Summary

Introduction

EPA Region 9 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Nevada Division of Environmental Protection.

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

- NDEP exceeded EPA's NPDES inspection goals and national averages for inspection coverage in all categories of NPDES regulated facilities in FY 2015. NDEP inspected 100 percent of major facilities, 24 percent of minor facilities and more than 20 percent of stormwater dischargers.
- No major facilities in Significant Noncompliance (SNC).
- All formal and informal actions reviewed included specific requirements with timetable to return violations to compliance.

Most Significant CWA-NPDES Program Issues¹

- NDEP did not enter formal enforcement actions or single event violations (SEVs) at major facilities into EPA's ICIS-NPDES database as required by EPA's data management policies.
- Three of four penalty calculations assessed did not include an economic benefit component.
- EPA recommends NDEP develop a standardized inspection checklist to more accurately demonstrate inspection results.

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

SRF Review Process

Review period:

State Fiscal Year 2015 (July 1, 2014 - June 30, 2015). The review included penalty and/or enforcement actions that extended beyond the fiscal year.

Key dates:

CWA: On-site file review conducted July 25-27, 2016

State and EPA key contacts for review:

CWA EPA Contacts:

Ken Greenberg, Manager, Wastewater Enforcement Section

John Tinger, Wastewater Enforcement Section

CWA State Contacts:

Bruce Holmgren, Bureau Chief, NDEP Bureau of Water Pollution Control

Joe Maez, Branch Supervisor, Technical, Compliance and Enforcement Branch

Clean Water Act Findings

CWA Element 1 — Data						
Finding 1-1	Meets or Exceeds Expectations					
Summary	<p>NDEP exceeded EPA’s goals for entering permit limit sets and Discharge Monitoring Reports (DMRs) in ICIS-NPDES for major facilities. NDEP is on track to meet EPA’s e-reporting rule requirements for entering permit limits and DMRs in ICIS-NPDES for non-major facilities.</p>					
Explanation	<p>NDEP entered permit limit sets in ICIS for 100% of its 11 major facilities with permit effluent limits. (EPA’s ECHO metrics query for metric 1b1 incorrectly states that Nevada has a universe of 14 major facilities. However, 3 of these are MS4 permits without effluent limits. To correct this error, we calculated metric 1b1 based on a universe of 11 majors.)</p> <p>There are two instances where ICIS is not capable of tracking permit limits for NV NPDES permits. One, the limit for nutrients based on the waste load allocation of a Total Maximum Daily Load (TMDL) includes the sum total of the annual load of four facilities discharging into the Las Vegas Wash. ICIS is not capable of tracking the sum among 4 separate facilities. Two, the limit for pH when continuous monitoring is employed allows excursions of up to 7 hours, 26 minutes during the month and no excursion to exceed 60 minutes (40 CFR401.17). ICIS is not capable of tracking allowable pH excursions.</p> <p>In FY15, NDEP was not entering permit limits for non-majors in ICIS. However, NDEP will have non-major facility permit limit sets entered in ICIS within the required timeframes under EPA’s e-reporting rule.</p> <p>DMR entry for majors was 100%. NDEP does not track DMR limits for non-majors in ICIS. NDEP will have DMR entry for non-majors complete within the required timeframes under EPA’s e-reporting rule.</p> <p>ECHO results show four majors were in non-compliance with DMRs.</p> <p>Note: No majors were in Significant Noncompliance (SNC). NDEP does not track non-major facilities’ compliance in ICIS-NPDES. NDEP does not issue general permits to cover major facilities, or non-major facilities except for stormwater.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #

	1b1 Permit limit rate for major facilities	95%	90.9	11	11	100%
	1b2 DMR entry rate for major facilities	95%	96.7	631	631	100%
State response	Although not within the FY15 timeframe of this review, NDEP has met the e-Reporting goal without requesting any waivers. NDEP will continue to issue NPDES permits in compliance with the Nevada Water Pollution Control Law and the Clean Water Act. The effluent discharge limitations of these permits may not fit neatly into the ICIS database but all are legally defensible and have been issued without EPA objection.					
Recommendation	None required.					

CWA Element 1 — Data

Finding 1-2	Area for State Attention
Summary	<p>NDEP accurately entered the majority of data into ICIS. This included:</p> <ul style="list-style-type: none"> • All Facility Identifiers for major & non-major facilities. • All Permit information for major & non-major facilities. • All Inspections for major & non-major facilities. • Manual Override of Reportable Noncompliance/Significant Noncompliance (RNC/SNC) to a compliant status. <p>However, NDEP failed to enter several required data elements into ICIS. These were:</p> <ul style="list-style-type: none"> • 2 Formal Enforcement Actions for major facilities, 1 Formal Enforcement Action at a non-major facility; and 1 Formal Enforcement Action at a construction stormwater facility • 1 of 2 SEVs at major facilities
Explanation	NDEP began entering all Formal Enforcement Actions for Major and non-major facilities, and SEVs at Major facilities in NPDES-ICIS starting in FY2016. EPA encourages NDEP to continue entering all Formal Enforcement actions into ICIS, and all Single Event Violations (SEVs) at Major facilities in ICIS-NPDES. EPA will check in at regularly scheduled State-EPA meetings or teleconferences to ensure data is appropriately entered.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
		2b Files reviewed where data are accurately reflected in the national data system	100%		26	30
State response	<p>As noted in the draft FY15 SRF, NDEP began manual entry into ICIS of formal enforcement actions starting in FY16 (January 1, 2016) for both major and non-major facilities. NDEP will continue this practice of manual entry of formal enforcement actions to meet this requirement.</p> <p>Based primarily on the time required to track and enter SEVs into ICIS, NDEP has not pursued this additional data entry activity that provides limited value to our compliance and enforcement programs. NDEP has an established 24-hour spill reporting process that covers all the SEV categories listed for SSOs and the majority of the other release-related SEVs. NDEP reviews the followup report due within 5 days of a spill or release that documents the release cause, duration, quantity, pollutant concentrations, and a plan and schedule for corrective action to prevent similar releases to determine whether formal enforcement is warranted.</p> <p>As a standard part of all compliance evaluation inspections, NDEP staff use applicable SEV codes in their inspection reports for observed violations. This practice results in SEV entries into ICIS for permitted facilities that have SEV type violations identified during an inspection. NDEP is not proposing to fully implement tracking in ICIS of all SEVs.</p>					
Recommendation	None required.					

CWA Element 2 — Inspections

Finding 2-1

Meets or Exceeds Expectations

Summary

During FY15, NDEP met or exceeded EPA's Compliance Monitoring Strategy goals and for inspection coverage.

Explanation

NDEP exceeded EPA's NPDES Compliance Monitoring Strategy inspection goals and national averages for inspection coverage in all categories of NPDES regulated facilities in FY 2015.

NDEP inspected 100 % of major facilities, 26 % of minor facilities and more than 20 % of stormwater dischargers. Additionally, NDEP conducted sampling inspections of approximately 50% of majors to verify discharger-submitted DMRs.

NDEP has 3 Phase I MS4s covered under individual permits and 6 Phase II MS4s covered under a general permit. NDEP did not conduct a Phase I MS4 audit during FY15, but met its target of inspecting all Phase I MS4s over a five year period. NDEP conducted inspections of the Douglas County small MS4 during FY15, including Carson City. As part of the SRF, EPA reviewed the most recent Phase I audit report (Las Vegas 2014) and 2 Phase II reports. The MS4 audit reports accurately and thoroughly document the MS4 program evaluation results.

NDEP inspected 49% of Phase I and Phase II construction facilities, including 100% of facilities that request termination of permit coverage. NDEP's stormwater permit requires an inspection to verify all permit requirements have been met before the facility can terminate permit coverage, and NDEP's termination inspection ensures that all BMPs have been implemented before an operator can leave the site. NDEP's total inspection coverage of construction site facilities exceeds EPA's national goal. However, 88 % of construction site inspections were termination inspections. (see below)

In the Relevant Metrics Table below, the National Goal for each of the 4a, 5a, and 5b metrics is to inspect 100% of the State's Compliance Monitoring Strategy (CMS) commitments. NDEP's FY15 CMS commitments were equivalent to the goals established in EPA's CMS guidance for each category of inspections except as noted below. For several types of inspections, NDEP exceeded its FY15 CMS commitment, resulting in performance exceeding 100% in the Relevant Metrics table

below. NDEP’s FY15 CMS commitments are listed in the State Denominator (D) column below.

Note: NDEP does not have primacy for pretreatment, which resides with EPA Region 9. There are no combined sewer systems in Nevada. NDEP does not issue general permits to cover major facilities, or non-major facilities, except for stormwater.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits	100%		0	0	100%
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100%		0	0	100%	
4a4 Major CSO inspections	100%		0	0	100%	
4a5 SSO inspections	100%		0	0	100%	
4a7 Phase I & II MS4 audits or inspections	100%		3	1	300%	
4a8 Industrial stormwater inspections	100%		102	78	131%	
4a9 Phase I and II stormwater construction inspections	100%		773	160	483%	
4a10 Medium and large NPDES CAFO inspections	100%		2	1	200%	
5a1 Inspection coverage of NPDES majors	100%		11	5	220%	
5b1 Inspection coverage of NPDES non-majors with individual permits	100%		26	20	13026 %	
5b2 Inspection coverage of NPDES non-majors with general permits	100%		0	0	100%	
6a Inspection reports complete and sufficient to determine compliance at the facility	100%		36	36	100%	
6b Inspection reports completed within prescribed timeframe	100%		36	36	100%	

State response As noted in the draft SRF Report, NDEP continues to perform double the national goal of 10% of permitted stormwater sites inspected each year. This is something we are very proud of and will continue to strive to maintain. NDEP is in the process of doubling the number of Stormwater Branch inspectors and will be providing more focus on active construction sites as our new inspectors are trained and become proficient. NDEP will continue to inspect all stormwater permitted facilities prior to approving requested Notices of Termination. NDEP will continue to include termination inspections in our annual inspection totals.

Recommendation None required.

CWA Element 2 — Inspections

Finding 2-2	Area for State Attention
Summary	Generally, inspection reports were clear, accurate, and sufficient to document compliance determinations.
Explanation	<p>EPA noted some inspection reports did not specify all the areas of a facility that were inspected and were found to be compliant. EPA notes NDEP inspects all majors on a yearly basis, and the facilities are generally familiar to the Inspectors. However, it was not always clear from the inspection report write-up that the Inspector performed a comprehensive inspection. EPA notes NDEP does not have a standardized inspection checklist for individual permits. EPA recommends a facility checklist may be appropriate to document all areas of the facility compliance investigation that were reviewed during the comprehensive inspection.</p> <p>For stormwater, EPA reviewed 7 construction and industrial permit files. EPA noted a standardized checklist was used for stormwater inspections. NDEP Inspectors fill out the checklist in the field and have the ability to print the inspection report in the field. The report documents observations and deficiencies in a standardized report. In the event deficiencies are found, the report is considered a “written notice for corrective action”, and the Inspector specifies a date required for corrective action. Files reviewed indicated the Inspector will conduct a follow-up investigation, typically within 30 days. The inspection report is uploaded to the database along with inspection photos. A summary of the inspection report is tracked in a status report.</p> <p>NDEP completed 773 inspections of Phase I and Phase II construction stormwater facilities. The universe for FY 15 was 1087 active sites with 325 new sites. 679 of those inspections were for construction termination. (NDEP’s stormwater permit requires an inspection to verify all permit requirements and site stabilization has been completed before the operator can terminate permit coverage). NDEP conducted 65 compliance inspections; 12 reconnaissance inspections, and 17 follow-up/other inspections at construction sites. Therefore, NDEP conducted compliance inspections and/or reconnaissance inspections at approximately 77 active construction sites, or 7 % of the universe. While NDEP inspected 71% of the universe of construction sites, NDEPs rate of compliance inspections at active sites was 7%.</p>

The majority of inspection reports were completed, and mailed to discharger, within the required timeframes.

NDEP should increase its frequency of compliance inspections of active construction sites to meet or more closely approach EPA’s national goal of 10%. However, EPA recognizes NDEP is working to correct a previously identified deficiency for construction site terminations. In addition, EPA suggests NDEP develop a standard Inspection Checklist for non-stormwater facilities.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a9 Phase I and II stormwater construction inspections	100%		773 *	160	483 %*
4a9 Phase I and II stormwater construction inspections	100%		77 **	160	48 %**
* includes termination inspections					
* * compliance inspections at active sites					

State response

NDEP utilizes checklists for the training of new compliance inspectors as they learn the steps necessary to perform effective inspections. The checklists include not only the items to be examined in the field during a facility inspection, but the record review steps prior to the site inspection and the process required to properly document the inspections. NDEP will, however, enhance our inspection checklists and continue to add more checklists for our diverse permit types.

Recommendation

None Required.

CWA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations						
Summary	The noncompliance rates among Nevada’s major facilities is considerably lower (better) than the national average.						
Explanation	<p>Four of 11 major facilities registered DMR non-compliance. However, the violations were not considered significant. For one facility, the non-compliance was due to pH violations which may be an allowable excursion that is not able to be tracked in ICIS (see 1, above). For one facility, there were 2 violations of TDS with 3% exceedance of the limit and one lab reporting error. For one facility, the violation was due to non-reporting of one monitoring parameter which was manually resolved. The fourth facility had one excursion of 2% exceedance, and two daily max fecal coliform exceedances.</p> <p>NDEP should continue entering SEVs at Major facilities in NPDES-ICIS, as addressed in Element 1 (Data).</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7d1 Major facilities in noncompliance			74.2%	4	11	36%
	7e Inspection reports reviewed that led to an accurate compliance determination		100%		36	36	100%
	7f1 Non-major facilities in Category 1 noncompliance				0	0	100%
	7g1 Non-major facilities in Category 2 noncompliance				0	0	100%
	8a2 Percentage of major facilities in SNC			19.2%	0	11	0%
	8b Single-event violations accurately identified as SNC or non-SNC		100%		2	2	100%
	8c Percentage of SEVs identified as SNC reported timely at major facilities		100%		0	0	100%
State response	NDEP strives for compliance by working cooperatively in a consistent manner with its permittees. This allows us to achieve and maintain a high level of compliance while minimizing our reliance on resource-intensive formal enforcement actions.						
Recommendation	None required.						

CWA Element 3 — Violations

Finding 3-2	Area for State Attention					
Summary	1 of 2 SEVs at major facilities was not entered into ICIS.					
Explanation	NDEP began entering all Formal Enforcement Actions for Major and non-major facilities, and SEVs at Major facilities in NPDES-ICIS starting in FY2016. NDEP properly entered 1 SEV in ICIS-NPDES but did not enter a second SEV that was discovered in our file review.					
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	--				1
State response	See response to Finding 1-2.					
Recommendation	None Required.					

CWA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations					
Summary	NDEP issued several formal enforcement actions against major facilities, however, they rely primarily on informal enforcement to address violations at facilities covered by the general stormwater permits.					
Explanation	NDEP issued formal enforcement actions against 3 major facilities. Additionally, NDEP is considering a formal enforcement action against one major facility based on ongoing negotiations. EPA reviewed the files of all enforcement actions against major facilities.					
	Of the 17 files reviewed for non-major facilities, NDEP issued formal enforcement actions against 1 facility.					
	Of the 28 files reviewed for major and non-major facilities, NDEP issued informal enforcement actions to 6 facilities.					

Of the 8 files reviewed for construction and industrial stormwater permits, NDEP issued a formal enforcement action to 1 facility, and informal actions to 5 facilities. For stormwater, NDEP appears to rely on informal actions to return facilities to compliance based on inspection results.

All formal and informal actions reviewed included specific requirements with timetables to return source in violation to compliance.

It is difficult to assess the level of compliance of industrial and construction stormwater sites based on a file review. However, it appears NDEP relies on informal enforcement to return facilities to compliance. Of the construction site files reviewed, the Inspector noted corrective actions were required for the majority of facilities. One inspection noted “willful non-compliance” and the Inspector gave a 2nd informal notice for corrective action. Based on results of inspection reports, it may be appropriate for NDEP to pursue formal actions against more construction sites. Inspections for one facility resulted in formal enforcement action and penalty for repeated and severe construction site violations.

While review of this element meets or exceeds EPA expectations, EPA encourages NDEP to consider increased use of formal enforcement action for non-compliance at industrial and construction stormwater sites where warranted, or in instances of repeat non-compliance.

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	100%		16	16	100%
10a1 Major facilities with timely action as appropriate	98%	11.8%	0	0		
10b Enforcement responses reviewed that address violations in an appropriate manner	100%		16	16	100%	

State response With the FY18 increase in the Stormwater Branch staff, NDEP will have additional resources for stormwater enforcement, if necessary. NDEP’s goal is to enhance stormwater outreach and training through an expanded field presence, but the increased staffing level will enable NDEP to take appropriate action without negatively impacting the number of inspections.

Recommendation None Required.

CWA Element 5 — Penalties

Finding 5-1	Meets or Exceeds Expectations					
Summary	NDEP follows its State Penalty Policy in assessing penalties for NPDES violations. NDEP collected all penalties assessed in FY15.					
Explanation	<p>NDEP concluded three settlement actions during FY15.</p> <p>NDEP has a standardized Civil Penalty Policy. This policy is a public document. The Civil Penalty Policy establishes a methodology for inclusion of a Gravity Component, Economic Benefit, and Adjustment Factors. The penalty amount is decided by a “Penalty Panel” composed of four NDEP Bureau Chiefs. NDEP is currently in the process of revising and updating their Civil Penalty Policy.</p> <p>The Civil Penalty Policy establishes Gravity by assigning each component a value of zero to 10 for each violation. The Gravity components are: Environmental and/or health impacts of the violation; the Magnitude of Violations; the Culpability of discharger for causing the violation, and Fortuitous Factors. Each value is multiplied by \$1,000 or \$1,500 (for Culpability) per violation. The Economic Benefit component is based on EPA’s guidance models. Adjustment factors may be considered based on History of Compliance/recalcitrance; Ability to Pay; and Litigation Considerations.</p> <p>Civil penalties are limited by Nevada Statute to \$25,000 per day per violation.</p> <p>EPA reviewed the files of three settlements assessed in FY15, as well as one settlement offer in FY14.</p> <p>For the four settlements reviewed, all penalty calculations and rationales were included in an internal memo in the record.</p> <p>In each case, the record included evidence the penalty was collected, or, in the case of one SEP, the record included an invoice that 1.25 times the settlement offer amount was spent on an approved project.</p> <p>There was no difference between initial and final penalties.</p>					
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	100%		0	0	

	12b Penalties collected	100%	4	4	100%
State response	NDEP consistently applies its Civil Penalty Policy and either collects the appropriate settlement amount or tracks through completion approved supplemental environmental projects.				
Recommendation	None				

CWA Element 5 — Penalties

Finding 5-2	Area for State Improvement					
Summary	In some of NDEP’s FY15 penalty actions, they did not include economic benefit as a component of the calculated penalty.					
Explanation	<p>NDEP concluded three settlements during FY15.</p> <p>EPA reviewed the files of the three penalties assessed in FY15, as well as one assessed in FY14.</p> <p>For the four settlements reviewed, all penalty calculations and rationales were included in an internal memo in the record. One penalty calculation included an assessed amount for economic benefit.</p> <p>Three of the cases considered, but did not include, a value for economic benefit in the penalty calculations. In two cases, both for spill violations, the memo stated any benefit would have been from replacing aging infrastructure to prevent spills, and no value was assessed.</p> <p>In one case, the defendant provided an estimate of economic benefit, but NDEP decided not to include an amount in the settlement assessment.</p> <p>Penalty calculations for settlement offers developed by NDEP should include an economic benefit component, or justification for the component not being included in the penalty.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #

	11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%	1	4	25%
State response	<p>In June 2017, NDEP enforcement staff received training on the use of EPA economic benefit and ability to pay models. Knowledge gained during this training will be utilized in determining appropriate settlement amounts for formal enforcement actions and in court proceedings, if necessary.</p> <p>BWPC follows its Enforcement Policy with the goal of returning the permittee to compliance as soon as possible. Settlement amounts are determined in a deliberative process, using the Penalty Panel, with approval of the settlement offer amount by the NDEP Administrator. Consistent with the Policy, documentation of this deliberative process is not part of the public record but non-confidential economic benefit information provided by the violator is maintained in the public enforcement file.</p> <p>If the violator does not accept the settlement offer, NDEP requests the Attorney General to pursue maximum penalties.</p>				
Recommendation	<p>Penalty calculations for settlement offers developed by NDEP should include an economic benefit component, or justification for the component not being included in the penalty. EPA and NDEP will routinely discuss penalties at state-EPA meetings or calls, and randomly review case files, as appropriate, to determine that economic benefit is being adequately addressed in penalty determinations. If so, EPA will close out this recommendation within a year of the date of this final report.</p>				

NDEP Comments to Draft SRF Report—CWA Summary:

NDEP appreciates EPA’s program review and input, but would like to reiterate that our enforcement program’s success should be measured by the compliance rate, as opposed to the violation/enforcement rate or settlement amounts. This philosophy is the cornerstone of NDEP’s successful compliance and enforcement program.

NDEP strives for compliance by working cooperatively in a consistent manner with the regulated community. This allows us to achieve and maintain a high level of compliance, in most cases outside of formal enforcement. NDEP will continue to require all wastewater treatment plants be managed by certified wastewater treatment operators and is working to enhance this program. We continue to review all design plans for construction of wastewater treatment plants prepared by Nevada-licensed Professional Engineers with our professional staff of engineers. Such requirements greatly enhance the compliance rate for our NPDES permitted facilities.

NDEP inspects all eleven major NPDES facilities on an annual basis, doubling the EPA national coverage goal of inspecting the majors every two years. Additionally, we conduct compliance evaluation inspections (CEI) on at least 20% of all minor (non-major) NPDES facilities statewide each year. We will continue to do this because we know inspections are a critical factor in ensuring compliance with the NPDES program. Our stormwater inspection schedule is robust and will continue to grow.

We continue to fund our wastewater operator's Circuit Rider Program even after federal funding stopped ten years ago. This is because our program has proven to be significant for achieving compliance in the State of Nevada for the rural wastewater treatment plants.

NDEP continues to meet the Phase I electronic reporting requirements and actively manages its universe of NPDES facilities to submit their discharge monitoring reports each quarter. We are able to track submittal dates and follow up on failures to submit required reports using our own database, as well as NetDMR and ICIS. Exceedances of DMR limits are assessed each quarter to determine the appropriate compliance actions.

To summarize, NDEP does not believe that a compliance and enforcement program should be evaluated merely by counting violations and the makeup of formal enforcement settlement penalty amounts. NDEP is proud of its compliance record and believes the compliance rate to be the true metric necessary to accurately represent the effectiveness and success of a compliance and enforcement program.

STATE REVIEW FRAMEWORK

Nevada

Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2015

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

**Final Report
February 13, 2018**

Executive Summary

Introduction

The U.S. Environmental Protection Agency (EPA) Region IX Air & TRI Enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Nevada Division of Environmental Protection (NDEP).

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

Areas of Strong Performance

- NDEP met or exceeded EPA's Large Quantity Generator (LQG) annual and 5-year inspection goals. NDEP inspected 100% of LQG's during 5-year inspection coverage period, while the national average was 56.1%. FY2015 inspection coverage was 89.4% of NV LQG facilities. The national average was 19.6%. NDEP also met the two-year 100% inspection coverage required for Treatment, Storage and Disposal facilities, exceeding the national average of 94.8%.

Most Significant RCRA Subtitle C Program Issues

- NDEP's penalty calculations did not include an explanation (e.g., below minimum threshold) when economic benefit for non-compliance was not included in the proposed penalty.
- NDEP is not documenting in the enforcement case file Significant Noncompliance (SNC) determinations, which are required by their inspection and enforcement policy and procedures for formal enforcement penalty actions.

SRF Review Process

Review period: FY 2015

Key dates:

- Kickoff letter sent to NDEP: March 18, 2016
- On-site RCRA file review: May 18-19, 2016
- Draft report sent to NDEP: August 2017
- Report finalized: February 2018

State and EPA key contacts for review:

NDEP

- Mike Richardson, Branch Supervisor, HW and SW Compliance & Enforcement Branch

EPA Region 9

- Doug McDaniel, Manager, Waste & Chemical Section, Enforcement Division
- John Schofield, Waste & Chemical Section, Enforcement Division

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data							
Finding 1-1	Meets or Exceeds Expectations						
Summary	Mandatory data was completely and accurately identified.						
Explanation	<p>NDEP prepared written inspection reports for each Compliance Evaluation Inspection (CEI) performed</p> <p>For inspection reports with violations identified (10 reports) the data entered was accurate.</p> <p>NDEP should continue to ensure that all completed CEI reports are entered into RCRAInfo.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	2b Complete and accurate entry of mandatory data		100%		10	31	32.3
State response	<p>(NV submitted the following comment, with which EPA concurs. We have amended the draft report accordingly.)</p> <p>Because Enforcement Code 114-Inspection Report Written is obsolete, NDEP-BWM does not agree with this finding. EPA required that Enforcement Code 114 be removed from use in 2007 during the RCRAInfo update to Version 3. Additionally, it is NDEP-BWM's understanding that Enforcement Code 120-Written Informal (Warning Letter) is only used when violations are alleged by NDEP-BWM and is inappropriate for an inspection in which no violations are alleged.</p>						
Recommendation	No further action recommended.						

RCRA Element 2 — Inspections

Finding 2-1	Meets or Exceeds Expectations																														
Summary	NDEP exceeded Large Quantity Generator (LQG) one-year core inspection coverage, met LQG 5-year core coverage, and exceeded the 5-year national average for Small Quantity Generators (SQGs).																														
Explanation	<p>Element 2-1 is supported by Metric 5b, 5c and 5d. The OECA National Program Managers (NPM) Guidelines outlines the core program coverage for LQGs. NDEP exceeded the annual inspection goal of 20% of the regulated LQG universe. NDEP’s internal goal is to perform a CEI for each operating LQG facility annually. NDEP’s annual inspection percentage was 89.4%, significantly above the national average of 19.6%.</p> <p>NDEP met the national goal of 100% LQG inspection coverage over a 5-year period.</p> <p>While there are no national coverage goals for SQGs, NDEP has an aggressive inspection program. The national 5-year average for SQG inspections is 10.7% of the regulated SQG universe. NDEP inspected 90% of its SQG universe during the review period.</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>5b Annual inspection coverage of LQGs</td> <td>20%</td> <td>19.6%</td> <td>84</td> <td>94</td> <td>89.4%</td> </tr> <tr> <td>5c Five-year inspection coverage of LQGs</td> <td>100</td> <td>56.1%</td> <td>94</td> <td>94</td> <td>100%</td> </tr> <tr> <td>5d Five-year inspection coverage of active SQGs</td> <td>N/A</td> <td>10.7%</td> <td>261</td> <td>290</td> <td>90%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5b Annual inspection coverage of LQGs	20%	19.6%	84	94	89.4%	5c Five-year inspection coverage of LQGs	100	56.1%	94	94	100%	5d Five-year inspection coverage of active SQGs	N/A	10.7%	261	290	90%						
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5d Five-year inspection coverage of active SQGs	N/A	10.7%	261	290	90%																										
State response	No comment.																														
Recommendation	No further action is recommended.																														

RCRA Element 2 — Inspections

Finding 2-2	Meets or Exceeds Expectations					
Summary	Treatment, Storage, and Disposal (TSD) inspection met or exceeded the 2-year core coverage goal of 100%.					
Explanation	Element 2-2 is supported by Metric 5a. The OECA National Program Managers (NPM) Guidelines outlines the core program coverage for TSDs. NDEP inspected 7 of their 7 TSDs, or 100%, meeting the national goal of 100% and exceeding the national average of 94.8%.					
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%	94.8%	7	7	100
State response	<p>(NDEP submitted the following comment, with which we concur. We have amended the finding of our draft report accordingly).</p> <p>Based on NDEP-BWM review, it appears EPA Region IX didn't evaluate the inspection data over the two-year period required by the data metric. According to the data pulled from RCRAInfo (the reference database), 7 out of 7 (100%) of the RCRA permitted facilities were inspected during the two-year period FYs 2015-2016. In addition, three of the seven facilities were inspected twice during the two-year period, which brings the inspection rate to 143%, thus exceeding the national goal.</p> <p>Precious Metals Recovery was issued a TSD permit, however the facility was never constructed, and remains vacant undeveloped land in Crescent Valley. NDEP-BWM periodically monitors this location, but there is no facility or activity to inspect. NDEP-BWM conducted a Focused Compliance Inspection (FCI), reason code ISI_HQ_INACTIVE SITE INSPECTION on June 30, 2016. In a RCRAInfo search of Compliance Evaluation Inspections (CEIs), this may have appeared as a missed inspection.</p>					
Recommendation	No further action recommended.					

RCRA Element 2 — Inspection

Finding 2-3	Meets or Exceeds Expectations																								
Summary	Nearly all NDEP inspection reports were well written and contained adequate supporting documentation.																								
Explanation	<p>NDEP inspection reports are prepared using a standardized template that includes facility identifying information and description, inspection participants, observations and findings. There were some minor inconsistencies observed in the reports. For example, photographs/photo logs did not always contain a caption or description of the area/item being photographed. A photograph alone without a caption or description does not fully document the observation.</p> <p>Another area of minor inconsistency in the reports was usage of the term “hazardous waste.” Generally, when the term is used in an NDEP inspection report the reason why the waste is hazardous is included. However, some inspection reports did not include either the applicable EPA Waste Code when describing the waste generated by the facility or a description of the waste (e.g., ignitable solvent wastes).</p> <p>Only one report reviewed did not accurately identify a potential violation. The report stated that there was a leaking container observed but did not identify the contents or include a photograph.</p> <p>NDEP completed 96.8% of the reviewed inspection reports within 45 days of the inspection. The average time to complete an inspection report was 18 days.</p>																								
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>6a Inspection reports complete and sufficient to determine compliance</td> <td>100%</td> <td>N/A</td> <td>30</td> <td>31</td> <td>96.8%</td> </tr> <tr> <td>6b Timeliness of inspection report completion</td> <td>100%</td> <td>N/A</td> <td>30</td> <td>31</td> <td>96.8%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6a Inspection reports complete and sufficient to determine compliance	100%	N/A	30	31	96.8%	6b Timeliness of inspection report completion	100%	N/A	30	31	96.8%						
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																				
6a Inspection reports complete and sufficient to determine compliance	100%	N/A	30	31	96.8%																				
6b Timeliness of inspection report completion	100%	N/A	30	31	96.8%																				
State response	No comment.																								
Recommendation	No further action is recommended.																								

RCRA Element 3 — Violations

Finding 3-1	Meets or Exceeds Expectations						
Summary	NDEP makes accurate compliance determinations based on the inspection reports reviewed.						
Explanation	<p>File review metric 7a assesses whether accurate compliance determinations were made based on the inspections conducted during the review period. Of the 31 complete files reviewed, 96.8% (30 of 31) contained accurate compliance determinations.</p> <p>One inspection report identified a leaking container. The report did not describe why this observation was not a RCRA violation.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	7a Accurate compliance determinations		N/A	N/N	30	31	96.8%
State response	No comment.						
Recommendation	No further action is recommended.						

RCRA Element 3 — Violations

Finding 3-2	Meets or Exceeds Expectations					
Summary	NDEP's frequent inspections of its regulated universe results in higher RCRA compliance rates.					
Explanation	Metric 7b measures the rate at which violations are observed during inspections. The national average observed violation rate is 36.5% and NDEP's rate is 22.3% (77.7% compliance rate). This is a direct result of its aggressive inspection program where nearly 100% of the LQG universe is inspected annually, as well as exceptionally frequent SQG inspections. It is also EPA's observation that NDEP's RCRA inspection staff are relatively experienced and well-trained. As documented in the inspection reports, inspections performed by NDEP are thorough. These factors result in higher compliance rates.					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	7b Violations found during inspections		36.5%	63	283	22.3%
State response	No comment.					
Recommendation	No further action is recommended.					

RCRA Element 3 — Violations

Finding 3-3	Area for State Attention					
Summary	NDEP does not make Significant Noncompliance (SNC) determinations for formal penalty actions.					
Explanation	<p>Metric 8a measures the SNC identification rate. The national state average for SNC determinations is 2.2%. NDEP SNC determination rate is 0%.</p> <p>NDEP has specific criteria described in NDEP’s Bureau of Waste Management, Hazardous Waste Policy and Procedures, Staff Guide (Staff Guide) for use in making a SNC determination. Under its policy, each SNC determination must be reviewed and approved by the NDEP BWM manager. NDEP’s criteria are that</p> <ul style="list-style-type: none"> • a Finding of Alleged Violation and Order were issued, and either • the violation has caused an actual exposure or substantial likelihood of exposure to hazardous waste or hazardous waste constituents, • or the alleged violator is chronic/recalcitrant • or the alleged violator has deviated substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. <p>The file review included 4 formal penalty enforcement action files. No SNC determinations were made for any of the penalty actions while it appears that one or more of the violations met the above described criteria. For example, a Finding of Alleged Violation (FOAV) was issued to Sunrise Hospital and the facility had repeat violations from the 2014 inspection.</p> <p>For all formal penalty actions, NDEP should make a SNC determination following the procedures outlined in the Staff Guide. EPA will review with NDEP SNC determinations on a semi-annual basis to verify the agency is following the SNC criteria described in their BWM written policy and procedures.</p>					
Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	8a SNC identification rate		2.2	0	0	0%

State response	NDEP-BWM does make SNC determinations on all formal penalty actions. All NDEP-BWM staff follow Appendix B of the NDEP-BWM <i>Hazardous Waste Enforcement Policy and Procedure STAFF Guide</i> , April 1, 2015, outlines the procedures for designating a facility as a Significant Non-Complier (SNC). Copies of the SNC Determination Checklists for facilities that were issued formal enforcement actions and were not designated as SNC's were not included in the facility files reviewed by EPA Region 9. In the future, NDEP-BWM will place SNC Determination Checklists for facilities that are not designated as SNC's in the facility file.
Recommendation	.

RCRA Element 4 — Enforcement

Finding 4-1	Meets or Exceeds Expectations																		
Summary	NDEP takes timely and appropriate enforcement actions.																		
Explanation	<p>Metric 9a measures enforcement responses that returned or will return facilities with Significant Noncompliance (SNC) or Secondary Violator (SV) violations to compliance. All files with identified violations contained well documented return to compliance information. This data was entered into RCRAInfo by NDEP.</p> <p>Metric 10b assesses the appropriateness of enforcement actions for SVs and SNCs. In the files reviewed with violations, 100% of the facilities had an appropriate enforcement response.</p>																		
Relevant metrics	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>9a Enforcement that returns violators to compliance</td> <td>100%</td> <td></td> <td>10</td> <td>10</td> <td>100%</td> </tr> <tr> <td>10b Appropriate enforcement taken to address violations</td> <td>100%</td> <td></td> <td>10</td> <td>10</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	9a Enforcement that returns violators to compliance	100%		10	10	100%	10b Appropriate enforcement taken to address violations	100%		10	10	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #														
9a Enforcement that returns violators to compliance	100%		10	10	100%														
10b Appropriate enforcement taken to address violations	100%		10	10	100%														
State response	No comment.																		
Recommendation	No further action is recommended.																		

RCRA Element 5 — Penalties

Finding 5-1	Area for State Improvement						
Summary	NDEP’s penalty calculations did not include justification for not using economic benefit as a component of the penalty.						
Explanation	<p>NDEP has a well-developed penalty calculation process, including consideration of economic benefit of non-compliance (EBN). However, none of the penalty actions reviewed (4 of 4) contained a justification for the penalty not including an EBN component (e.g. did not meet minimum threshold for pursuing EBN). For each of the worksheets reviewed, this component was either left blank or a zero placed in the worksheet with no explanation.</p> <p>Penalty calculations developed by NDEP should include an EBN component, or justification for the component not being included in the penalty.</p>						
Relevant metrics	Metric ID Number and Description		Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit				0	4	0%
State response	<p>NDEP-BWM estimates an economic benefit component on all formal penalty actions. NDEP-BWM <i>Hazardous Waste Enforcement Policy and Procedure STAFF GUIDE</i>, April 1, 2015, outlines the procedures for calculating economic benefit. All NDEP-BWM staff follow those procedures. NDEP-BWM relies on documents such as U.S. EPA’s <i>Estimating Costs for the Economic Benefit of RCRA Non-Compliance Scope of Work</i> for the calculation of economic benefit. These documents only provide economic benefit values for a very limited number of RCRA requirements. Because most RCRA requirements do not lend themselves to an economic benefit analysis, they are not included in the above-mentioned EPA documents. Recorded values of \$0 or “None” on the penalty calculation worksheets represent alleged violations of the latter RCRA requirements which do not lend themselves to economic benefit. This benefit determination is described as policy in the <i>Hazardous Waste Enforcement Policy and Procedure STAFF GUIDE</i>, April 1, 2015. NDEP-BWM doesn’t agree that justification for \$0 or “None” is required to be on the form because it is covered in the policy staff guide. However, in the future, NDEP-BWM staff will include an explanation in cases where the economic benefit is \$0 or “None.”</p>						

Recommendation	Penalty calculations for settlement offers developed by NDEP should include an economic benefit component, or justification for the component not being included in the penalty. EPA and NDEP will routinely discuss penalties at state-EPA meetings or calls, and randomly review case files, as appropriate, to determine that economic benefit is being adequately addressed in penalty determinations. If so, EPA will close out this recommendation within a year of the date of this final report.
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RCRA Element 5 — Penalties

Finding 5-2	Meets or Exceeds Expectations																								
Summary	NDEP maintains required penalty collection records.																								
Explanation	NDEP penalty collection records include a copy of the check or a copy of the electronic record documenting the penalty payment. Payment records are kept in a secured file.																								
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>12b Penalties collected</td> <td></td> <td></td> <td>4</td> <td>4</td> <td>100%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	12b Penalties collected			4	4	100%												
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12b Penalties collected			4	4	100%																				
State response																									
Recommendation	No further action is recommended.																								