

# **STATE REVIEW FRAMEWORK**

## **Ohio**

**Clean Water Act, Clean Air Act, and  
Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2016**

**U.S. Environmental Protection Agency  
Region 5**

**Final Report  
March 26, 2020**

# I. Introduction

## A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

## B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under [State Review Framework](#).

# II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

## A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

## B. Performance Findings

The EPA makes findings on performance in five program areas:

- **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, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

**Meets or Exceeds:** No issues are found. Base standards of performance are met or exceeded.

**Area for Attention:** Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

**Area for Improvement:** Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

## C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose of recommendations are to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include

specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

### **III. Review Process Information**

#### **Clean Water Act (CWA)**

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#### **Clean Air Act (CAA)**

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#### **Resource Conservation and Recovery Act (RCRA)**

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# Executive Summary

## Introduction

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### Clean Water Act (CWA)

EPA Region 5 enforcement staff conducted an SRF oversight review of the Ohio Environmental Protection Agency (OEPA) compliance and enforcement program.

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Manager and publish reports and recommendations on EPA's Enforcement and Compliance History Online (ECHO) website.

### Clean Air Act (CAA)

EPA Region 5 enforcement staff (EPA) conducted a State Review Framework (SRF) enforcement program oversight review of the Ohio Environmental Protection Agency.

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's Enforcement and Compliance History Online (ECHO) website.

### Resource Conservation and Recovery Act (RCRA)

EPA Region 5 enforcement staff conducted an SRF oversight review of the OEPA compliance and enforcement program.

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

## Areas of Strong Performance

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The following are aspects of the program that, according to the review, are being implemented at a high level:

### Clean Water Act (CWA)

- OEPA's inspection reports are complete and they provide enough details to make accurate compliance determinations.
- In all files reviewed, OEPA documented the difference between initial and final penalties and collected penalties in all cases in which they were assessed.

### **Clean Air Act (CAA)**

- OEPA has met expectations for FCE coverage at Title V majors and SM80s facilities.
- OEPA sufficiently documents collection of penalties.

### **Resource Conservation and Recovery Act (RCRA)**

- Review of OEPA's inspection data shows OEPA exceeded national averages in meeting annual inspection coverage for large quantity generators (LQG) and two-year inspection coverage for operating treatment, storage and disposal facilities (TSDFs).
- EPA Region 5 commends OEPA for its efforts in meeting inspection coverage commitments for LQGs and its attention to detail while conducting RCRA inspections.
- OEPA exceeded the national average in the category of violations found during inspections.

### **Priority Issues to Address**

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The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

#### **Clean Water Act (CWA)**

- Enforcement data was not consistently entered in ICIS-NPDES for the period reviewed.
- The information in ICIS-NPDES was incomplete for inspections, schedules of compliance, and enforcement action data.
- Achieved dates for Notices of Violation (NOVs) were not consistent with the dates identified in Resolution of Violation Letters.
- One Single Event Violation (SEV) was identified.
- The proper linkages between inspections, SEVs, and enforcement actions were not evident.
- Several major facilities were incorrectly identified as being SNC for Discharge Monitoring Report (DMR) non-receipt.
- OEPA does not always return facilities in violation back into compliance, nor are violations consistently addressed in a timely and appropriate manner.

#### **Clean Air Act (CAA)**

- EPA's review identified a number of data deficiencies inaccurately reported to ICIS-Air for FY16 (Notices of Violation (NOVs), Full Compliance Evaluations (FCEs), Title V annual compliance certification (ACCs) data). Since the SRF, data deficiencies or issues identified have

been discussed on the monthly conference calls and addressed by OEPA in a timely manner.

- OEPA has not met expectations for accuracy of FRV and HPV determinations per the FRV and HPV policies.
- OEPA Compliance Monitoring Reports (CMRs) could use more specificity. Often terms and conditions are complex or made up of several parts but the CMR only allows for a single compliance/noncompliance determination. OEPA is not making a compliance determination for each permit requirement.
- OEPA is not always seeking a penalty for, and correction of, all available violations in enforcement actions it initiates.

### **Resource Conservation and Recovery Act (RCRA)**

- Although OEPA has made significant improvement in the completeness of inspection reports since the last SRF in 2013, EPA identified some deficiencies in the completeness and sufficiency of inspection reports in the current review.
- EPA identified a number of deficiencies in which mandatory data was not accurately and completely reflected in national data systems.
- EPA found instances in which gravity and economic benefit values were missing, as well as documentation of initial and final penalty assessments.

# Clean Water Act Findings

## CWA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

OEPA's major facility permit limit and Discharge Monitoring Report (DMR) entry rates both meet the national goals.

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#### Explanation:

Permit limits and DMR entry rates (metrics 1b1 and 1b2) for Majors meet the national goals. As a result, DMR violations are readily identifiable and timely steps can be taken to correct noncompliance and ensure compliance with permit limit conditions.

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
1b1 Permit limit data entry rates for major facilities [GOAL]	95%	91.1%	290	295	98.3%
1b2 DMR data entry rate for major facilities [GOAL]	95%	96.8%	27168	28108	96.7%

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#### State Response:

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## CWA Element 1 - Data

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### Finding 1-2

Area for Improvement

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#### Summary:

Inspection and enforcement data was not consistently entered into the National Data System (ICIS) during the FY16 review period.

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**Explanation:**

Data was accurately reflected in the national system in only 16 of 28 (57.1%) inspection files reviewed. Only one Single Event Violation (SEV) was found in ICIS for the period of the review. In addition to SEVs, the information in ICIS was incomplete for inspections, permit schedules of compliance, and enforcement action data. The proper linkages between inspections, SEVs and enforcement actions were not evident in ICIS. The achieved dates for Notices of Violation (NOVs) were not consistent with resolution of violations (ROVs) dates. Several major facilities were incorrectly identified in ICIS as SNC for DMR non-receipt violations. In particular, Region 5 discussed the SEV data issue with the OEPA Division of Surface Water (DSW) staff and managers. DSW is in the initial phase of implementing a plan to put SEV violation codes into the documentation system currently used by field inspectors. Many SEVs already exist as violations in the system used by the inspectors, but the addition of codes will make the violations consistent with the SEV descriptions and codes in ICIS. Any SEVs documented by an inspector will be evaluated as the inspector determines facility compliance, and will be identified as violations, if appropriate, when the inspector issues a Notice of Violation (NOV) to the facility. The SEVs will then be tracked for resolution in the same way other violations are being tracked. OEPA will conduct mapping (using XML schema) to flow the SEV data to ICIS. OEPA expects to begin flowing SEV data to ICIS by September 2018.

Since the SRF, OEPA began entering and tracking SEV data in State data system in October 2019. On November 5, 2019, OEPA demonstrated an online tutorial to EPA staff in Columbus, Ohio that featured the implementation of data entry and tracking of their SEVs. OEPA also shared the initial SEV data with EPA via excel spreadsheet through email. The spreadsheet included permit number, facility name, date of violation, and type of SEV. OEPA will provide spreadsheets to EPA on a quarterly basis until SEV data can flow into ICIS-NPDES from the State's data system. OEPA has addressed the initial findings from the SRF.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		16	28	57.1%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100% of CMS	5.6%	1904	19116	10%
8b Single-event violation(s) accurately identified as SNC or non-SNC at major facilities (Goal).	100%		1	12	8.3%

**State Response:**

Throughout the summer of 2018, OEPA staff were educated statewide on minimum data requirements for inspection and enforcement actions, through in-person training provided by the Central Office Compliance and Enforcement managers. This training specifically included how to demonstrate proper documentation of inspection and enforcement actions. OEPA continues to provide regular updates to EPA through regular calls regarding our status in documentation of SEVs and flowing of SEV data to ICIS. For approximately three years, OEPA has been working with limited IT resources to develop the SEV reporting tool SML-Schema for transferring SEV data into ICIS. Competing priorities within the IT department have caused significant delays in the finalization of the SEV reporting tool, and continues to be a concern. However, once the SEV reporting tool is finalized and in use, data management staff will be formally trained to use the reporting tool. OEPA appreciates EPA offer to provide training. After the roll-out of the SEV reporting tool, an excel-based tool will be developed to generate the XML Schema required for flowing SEV data to ICIS. OEPA is working with EPA to develop a criteria for determining whether an SEV is considered to be SNC. Once an SNC criteria has been established, OEPA will develop internal guidance and work to apply this to all documented SEVs, and report this information to ICIS.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"> <li>By May 1, 2020, EPA and HQs staff will work with OEPA's staff to determine how to accurately code SEV violations so SNC determinations will be reported during dataflow to ICIS-NPDES and other data linkages (i.e., linking violations to enforcement actions, using violation start and end dates, etc).</li> </ul>
2	05/01/2020	<ul style="list-style-type: none"> <li>By May 1, 2020, OEPA will incorporate data entry of SEVs that have been determined to be SNC into ICIS-NPDES.</li> </ul>

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**CWA Element 2 - Inspections**

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**Finding 2-1**

Area for Improvement

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**Summary:**

OEPA is not consistently meeting all its state specific Compliance Monitoring Strategy (CMS) goals.

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**Explanation:**

OEPA has met its CMS goals for SSO and stormwater construction inspections. However, OEPA has only completed the following percentages of its inspection or audit commitments: 61.5% - pretreatment, 37.7% - Significant Industrial User, 55.6% - combined sewer overflow, 29.8% - MS4, and 83.5% - industrial stormwater. OEPA should periodically evaluate progress meeting CMS commitments. EPA recognizes that unforeseen reductions in resource levels and other program commitments may have an impact on the state's ability to meet CMS targets. The state can utilize the mid-year reporting process to evaluate and, if necessary, request adjustments in CMS commitments for the fiscal year.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% of commitments		34	91	37.4%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100%		10	7	143%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100%		58	154	37.7%
4a4 Number of CSO inspections. [GOAL]	100%		10	18	55.6%
4a5 Number of SSO inspections. [GOAL]	100%		645	103	626.2%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100%		17	57	29.8%
4a8 Number of industrial stormwater inspections. [GOAL]	100%		233	279	83.5%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100%		1657	1577	105.1%
5a1 Inspection coverage of NPDES majors. [GOAL]	100%	51.9%	125	151	82.8%
5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100%	23.9%	1036	664	156%

5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100%	5.6%	1906	19116	10%
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**State Response:**

After OEPA created a dedicated Compliance Unit to oversee the CMS a few years back, OEPA began to demonstrate significant improvements with our FFY 2017 and FFY 2018 CMS results. OEPA’s field season typically occurs throughout the spring and summer months. It would be more appropriate to evaluate trajectory of progress after the 3rd quarter. If needed, OEPA will request an adjustment to the CMS commitments by July 15th of that CMS FFY.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	07/15/2020	<ul style="list-style-type: none"> <li>By July 15th of each FFY, OEPA will evaluate progress in meeting their CMS commitments, and will request adjustments to those commitments, if necessary, to EPA.</li> </ul>
2	09/30/2020	<ul style="list-style-type: none"> <li>EPA will continue to monitor progress through regular quarterly calls, mid-year and end-of-year program reviews, and a comparison of OEPA progress report data with ICIS data through September 30, 2020.</li> </ul>

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**CWA Element 2 - Inspections**

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**Finding 2-2**

Meets or Exceeds Expectations

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**Summary:**

OEPA inspection reports are complete, and they provide sufficient details to make accurate compliance determinations.

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**Explanation:**

Based on our onsite review of OEPA files, 19 of 21 (90.5%) inspection reports reviewed were deemed complete.

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%		19	21	90.5%

**State Response:**

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## CWA Element 2 - Inspections

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### Finding 2-3

Area for Attention

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#### Summary:

OEPA does not consistently complete inspection reports in a timely manner.

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#### Explanation:

The Region's review of OEPA inspection reports found the reports were not always completed within 30 days as stated in the NPDES EMS. Fifteen of 21 (71.4%) inspection reports reviewed were timely. This is written up as an area of state attention since the state's average for completion of inspection reports is actually 31 days. Fifteen of the 21 reports reviewed took 30 days or less to complete. Four reports were completed in 31-40 days. Four files had inspection reports that took 40 or more days to complete (which significantly skewed the distribution).

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6b Timeliness of inspection report completion [GOAL]	100%		15	21	71.4%

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**State Response:**

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## CWA Element 3 - Violations

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### **Finding 3-1**

#### Area for Improvement

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##### **Summary:**

OEPA is not identifying and entering Single Event Violations (SEVs) into the national data system (ICIS-NPDES). OEPA is also not accurately identifying these violations as Significant Non Compliance (SNC) appropriately, and therefore, compliance rates may not be accurately reported.

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##### **Explanation:**

In the last SRF review (Round 2), US EPA identified that OEPA was not entering SEV data into ICIS-NPDES. During this review (Round 3), the Region found that OEPA entries into ICIS-NPDES included only 1 SEV for the period of record (See data metric 7a1). Our onsite review of records showed that 1 of 12 or 8.3% files reviewed with SEVs were accurately identified as SNC or non-SNC (See file metric 8b.) Some of the SEVs encountered included statutorily prohibited Sanitary Sewer Overflows, as well as Concentrated Animal Feeding Operation discharges that may otherwise remain unaccounted for in an equitable load assessment. All noncompliance and significant noncompliance rates (73.9% and 19.1%) as reported in ICIS-NPDES are apparently based only on DMR violations (see data metric 7d1 and 8a2). EPA discussed this element with OEPA Division of Surface Water staff and managers, who recognize the need to document SEVs. DSW is in the initial phase of implementing a plan to put SEV violation codes into the documentation system currently used by field inspectors. Many SEVs already exist as violations in the system used by the inspectors, but the addition of codes will make the violations consistent with the SEV descriptions and codes in ICIS-NPDES. Any SEVs documented by an inspector will be evaluated as the inspector determines facility compliance, and will be identified as violations, if appropriate, when the inspector issues a Notice of Violation (NOV) to the facility. The SEVs will then be tracked for resolution in the same way other violations are being tracked. OEPA will conduct mapping (using XML schema) to flow the SEV data to ICIS-NPDES. OEPA expects to begin flowing SEV data to ICIS-NODES by September 2018.

Since the SRF, OEPA provided training to staff on October 16, 2019 that included a screenshot tutorial and live webinar demonstration. The demonstration included SEV identification and logging into the State's database. In addition, the webinar covered the beginning stages of SNC determination for SEVs identified during inspections. OEPA also shared a copy of the tutorial provided to state staff on November 6, 2019 via email EPA.

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##### **Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
7a1 Number of major facilities with single-event violations (SEVs)					1
7d1 Major facilities in noncompliance		73.3%	218	295	73.9%
7e Accuracy of compliance determinations [GOAL]	100%		16	21	76.2%
8a2 Percentage of Major Facilities in SNC.		20.3%	57	299	19.1%
8b1 Single-event violation(s) accurately identified as SNC or non-SNC at major facilities (Goal)	100%		1	12	8.3%

**State Response:**

In September 2018, OEPA's Central Office Compliance and Enforcement management and staff conducted training on the updated NOV follow-up and enforcement procedures outlined in the NOV SOP (which had been updated in March 2018). Training also included the identification of SEVs and the method OEPA will use to capture the SEV data and evaluate it. OEPA is finalizing upgrades to the existing inspection and NOV uploader in order to capture SEV data for transmission to the ICIS database. Unforeseen delays had occurred that pushed back the implementation date of the upgraded data system to May 1, 2019. Due to the complexities of programming and competing priorities with the IT department, there may be further delay in transmitting SEV data from the OEPA system into ICIS. Note that OEPA does a comprehensive evaluation of compliance to determine enforcement, and does not rely solely on SEVs.

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**Recommendation:**

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Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"> <li>By May 1, 2020, OEPA will begin evaluating all SEVs for SNC, and expects to enter SNC data into ICIS-NPDES.</li> </ul>
2	05/15/2020	<ul style="list-style-type: none"> <li>By May 15, 2020, OEPA will provide a report to EPA that includes: (1) a list of SEVs identified since October 1, 2019, and (2) a subset list of SEVs OEPA has determined to be SNC. This is intended to be an interim report to assess progress in utilizing SEVs as OEPA moves toward being able to flow SEV data from the State data system to ICIS-NPDES.</li> </ul>
3	09/30/2020	<ul style="list-style-type: none"> <li>EPA will monitor progress through regular quarterly calls, mid-year and end-of-year program reviews, and a comparison of OEPA progress report data with ICIS-NPDES data, through September 30, 2020.</li> </ul>

### CWA Element 3 - Violations

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#### Finding 3-2

Area for Attention

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#### Summary:

The Region's review of inspection files indicates that OEPA often (but not always) provides accurate compliance determinations, identifies potential violations, identifies and elevates violations to SNC to ensure they are resolved. Some of the issues identified here are addressed in CWA Element 3-1.

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#### Explanation:

Based on file review of metric 7e, 16 of 21 (76.2%) inspection reports led to accurate compliance determinations.

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#### Relevant metrics:

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
7e Accuracy of compliance determinations [GOAL]	100%		16	21	76.2%
7f1 Non-Major Facilities in Category 1 Noncompliance (data verification)					816
7g1 Non-Major Facilities in Category 2 Non-compliance (data verification)					1040

**State Response:**

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## CWA Element 4 - Enforcement

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### Finding 4-1

Area for Improvement

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#### Summary:

OEPA does not always return sources in violation to compliance, nor does it address all violations in a timely and appropriate manner.

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#### Explanation:

Review of data metric 10a1 indicates enforcement actions for major facilities were below the national goal as well as the national average. Onsite file reviews show that 14 of 26 (53.8%) actions returned facilities to compliance, 0 of 19 (0%) were timely, and 16 of 25 (64.0%) were addressed in an appropriate manner (See file metrics 9a and 10b). OEPA traditionally responds to NPDES permit violations (and some non-permit holders under the Ohio Revised Code) with informal notice letters called Notices of Violation (NOVs). The Division of Surface Water (DSW) issued a Standard Operating Procedure (SOP) for administering NOVs on November 30, 2016. The SOP includes designations for high (Level 1), medium (Level 2) and low-priority (Level 3) violation types, which EPA supports because these types are consistent with EPA's national Enforcement Management System and describe timely and appropriate enforcement for each level. While the file review didn't find any examples of the use of the priority designations described in the NOV SOP, we are aware that this SOP was implemented toward the end of the SRF Round 3 period of review. As such, many of the actions in files selected for review didn't benefit from the NOV guidance, which resulted in many actions that were not timely and appropriate, or did not bring facilities back into compliance. The DSW's Enforcement Management System (EMS) provides a description of its Compliance Inspection Tracker, which is used to manage inspections and inspection follow-up - but there isn't a description of how the Tracker will be used to ensure violating facilities return to compliance. It is important that OEPA ensures that inspectors and

DSW managers are aware of established lengths of time facilities should be given to return violation types to compliance, and what timely and appropriate actions should occur when this does not happen.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
10a1 Percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations	98%	12.6%	0	19	0%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%		16	25	64%
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%		14	26	53.8%

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**State Response:**

Most majors in SNC need substantial upgrades to the plant which takes time to design an effective system and can take years to complete. OEPA works with these facilities to help obtain funding through our Division of Environmental and Financial Assistance and other entities. These facilities have appropriate compliance schedules built into their NPDES permits despite the fact they remain on SNC in the meantime. OEPA also frequently engages the Compliance Assistance Unit (CAU) staff to seek out failing minor facilities to bring them into compliance prior to needing enforcement. If the facility is cooperatively working with OEPA, enforcement is usually a last result. OEPA revised the EMS in January 2018 which included the NOV SOP. A copy of the revised EMS was submitted to EPA. During the summer 2018, OEPA staff was educated Statewide on EMS procedures and the use of the Compliance Inspection Tracker through in-person training provided by the Central Office Compliance Unit.

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**Recommendation:**

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Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"> <li>By May 1, 2020, OEPA will submit a copy of the revised EMS procedures and guidance with EPA that will also include the NOV SOP, as well as, all training materials produced.</li> </ul>

## CWA Element 5 - Penalties

### Finding 5-1

Area for Attention

#### Summary:

OEPA usually, but not always, documents its consideration of gravity and economic benefit.

#### Explanation:

In our onsite OEPA review six of eight (75%) of penalty cases considered and included gravity and economic benefit. EPA believes that OEPA can improve in this area without recommendations.

#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%		6	8	75%

#### State Response:

## CWA Element 5 - Penalties

### Finding 5-2

Meets or Exceeds Expectations

#### Summary:

OEPA has met expectations in regard to documenting the difference between initial and final penalties, as well as documenting penalty collection.

---

**Explanation:**

In OEPA files reviewed, 8 of 8 (100%) of the files indicate that all penalties assessed were collected.

---

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		7	8	87.5%
12b Penalties collected [GOAL]	100%		8	8	100%

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**State Response:**

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# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

Area for Improvement

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#### Summary:

OEPA has not met expectations for accurate reporting of all MDRs, although they have met expectations for timely reporting of HPV determinations.

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#### Explanation:

Fourteen of 29 reviewed files (48.3%) had accurate MDR data in ICIS-Air. Some data deficiencies identified include: 1) different dates in case files than on the detailed facility report in ECHO for compliance monitoring reports and Title V annual compliance certification reviews; 2) violations identified as HPVs reported to ICIS-Air, however, there were no FRVs reported. States are required to report both HPVs and other violations of federally-enforceable requirements per the FRV policy; 3) inaccurate facility addresses and NOV dates. Similar findings were noted in OEPA's Round 2 SRF report. Since the SRF, EPA notes that no significant data issues have arisen over the course of the fiscal years, 2018 and 2019. However, a review of the FRV data reported from the past three years to ICIS-Air has shown that several HPVs listed on the ICIS-Air report are not listed on the FRV report for the same timeframe. This suggests additional corrections to OEPA reporting procedures are necessary. EPA will continue to monitor OEPA progress in FY2020.

---

#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		14	29	48.3%

---

#### State Response:

The date differences between ICIS-Air and ECHO are caused by the ICIS-Air generated FRV determination date that is reported to ECHO. This is a known issue in ECHO and has been the subject of numerous ECHO error notifications. The issue has been discussed with EPA in the past as well. OEPA reported the NOV dates correctly to ICIS-Air and this data does appear correctly in the Five-Year table but not the Three-Year Compliance History. We should not be assessed deficiencies based on ECHO errors that we have no control over. That said, even though reporting the FRV determination date is not an MDR, OEPA is currently expending resources to allow STARS2 to report the date to ICIS-Air in order to eliminate this problem. Regarding the FRV reporting problem, this was discussed with Region 5 in 2016 when we discovered there was a

problem with reporting FRVs in general through the node to ICIS-Air. This issue was corrected in 2016 and is no longer a problem. At a minimum, US EPA should acknowledge the ICIS-Air/ECHO interface issues that lead to what appears to be incorrect/missing data. Regarding the incorrect address issues, there were two identified in the review that were incorrect, both minor errors and immediately corrected. If these had been identified to us during the onsite review the errors would have been corrected, then. Overall, OEPA doesn't believe that there are systemic problems with its data reporting. Our review of each individual facility metrics indicates that 22 of the 29 facilities had accurate data (75.9%). OEPA believes this metric should be changed. Additional review beyond the monthly calls with Region 5 is not necessary.

---

**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"><li>• Progress will continue to be monitored by EPA through data retrievals from ICIS-Air and discussions with OEPA, if necessary, during the scheduled monthly conference calls.</li></ul>

---

**CAA Element 1 - Data**

---

**Finding 1-2**

Meets or Exceeds Expectations

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**Summary:**

OEPA met expectations for timely reporting of compliance monitoring and enforcement MDRs.

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**Explanation:**

1042 of 1056 compliance monitoring events (98.7%) were reported timely to ICIS-Air. 274 of 298 enforcement actions (91.9%) were reported timely to ICIS-Air.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
3a2 Timely reporting of HPV determinations [GOAL]	100%	16.8%	10	11	90.9%
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	80.9%	1042	1056	98.7%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	65.1%	1441	1666	86.5%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	77.2%	274	298	91.9%

**State Response:**

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## **CAA Element 2 - Inspections**

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### **Finding 2-1**

Area for Attention

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#### **Summary:**

OEPA has not met expectations for review of Title V annual compliance certifications.

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#### **Explanation:**

OEPA reviewed 498 of 585 Title V annual compliance certifications (ACCs) (85.1%) of the active Title V universe for this review year. EPA will continue to monitor OEPA's progress. There has always been a difference with the number of ACCs reported to ICIS-Air and the number entered in OEPA database system. ICIS-Air counts the reviewed date field, although there are revised ACCs reviewed and reported during the FFY. There is no mechanism programmed in ICIS-Air that distinguishes the original ACC verses the revised ACC. OEPA ACC count is based on the CY verses FFY. EPA HQs is aware of these issues mentioned above. Since the SRF, EPA has worked with EPA HQs to create a specific report so the revised ACCs would be excluded in the total count.

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#### **Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	69.6%	498	585	85.1%

**State Response:**

OEPA is unclear where the number 498 comes from. Our records show that 531 CY 2015 TV ACCs were reviewed in FFY 2016. A total of 565 reports from all years (including late reports, revisions, etc. from previous years) were reviewed in FFY 2016. OEPA tracks on a monthly basis the reports received versus the number of reports expected from active Title V facilities (as identified in STARS2). An NOV is sent to those facilities not submitting a report. TV ACC review is also a metric that is reviewed during each regular compliance and enforcement call the Central Office has with our field offices.

**CAA Element 2 - Inspections**

**Finding 2-2**

Meets or Exceeds Expectations

**Summary:**

OEPA has met expectations for FCE coverage at Title V majors and SM80s facilities.

**Explanation:**

Three hundred and five of 311 Title V majors with a 2-year frequency and mega-sites with a 3-year frequency (98.1%) received a FCE as required by the revised CMS policy. In addition, 160 of 161 SM80 facilities (99.4%) received an FCE within the 5-year frequency required by the revised CMS policy. Twenty of 20 reviewed case files (100%) included documentation of all FCE elements and provides sufficient documentation to determine compliance at the facility.

**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
5a FCE coverage: majors and mega-sites [GOAL]	100%	84.5%	281	291	96.6%
5b FCE coverage: SM-80s [GOAL]	100%	91.3%	180	189	95.2%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	70.1%	0	0	0

**State Response:**

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## CAA Element 2 - Inspections

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### Finding 2-3

Area for Attention

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#### Summary:

OEPA has not met expectations for documentation of the FCE elements.

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#### Explanation:

Fifteen of 19 FCEs (78.9%) contained all required elements, while 16 of 19 CMRs (84.2%) provides sufficient information to be able to determine compliance. Some examples of missing FCE elements include: 1) a permit required a source to perform weekly “normal” VE checks, but the inspector did not review the operational logs and usage records; 2) several examples where VE observations were not taken by the inspector, with a confusing and inadequate reason cited as “(See Facility Evaluation Form "Points to Remember" for reasons and further explanation.”; 3) fuel type/composition not reviewed; 4) loaded aggregate moisture content not reviewed; and 5) a stack test conducted was not reviewed. Regarding the CMRs, OEPA only gives a single compliance determination, even though several permit requirements need to be observed and evaluated. Each permit requirement should have its own compliance determination during the evaluation. CMRs could use more specificity. Often terms and conditions are complex or made up of several parts but the CMR only allows for a single determination. Ensure a determination is made for each permit requirement. OEPA informed EPA that they are in the process of providing additional training to field office inspectors regarding review of all elements needed for an FCE, including VE observation requirements, completion of inspection forms, and entry of data into STARS2. This training should be completed in June of 2019. EPA will review a selection of OEPA FCEs and CMRs to determine if they have improved in FY2020. Only one facility was cited for 3), 4), and 5) in the Explanation above. As stated, fuel type/composition is reviewed from quarterly reports submitted by the facility. Moisture content is not a permit record requirement only

“sufficient to suppress VEs during loading.” A stack test was conducted 09/07/16. The test results were received 10/07/16 and reviewed 10/24/16. The test report was included in the case files provided to EPA (Emissions Test 24522) and was reviewed. An SO2 exceedance was identified and a NOV was sent to the facility on 10/24/16. This NOV was also in the case file. This is an example of how EPA was incorrect in the evaluation. In regard to OEPA giving only a single compliance determination, each emissions unit is evaluated individually for compliance with permit terms and conditions during an inspection. The form provides the compliance status for each element being reviewed. OEPA feels that it is evaluating each permit’s requirements.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Documentation of FCE elements [GOAL]	100%		15	19	78.9%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		16	19	84.2%

---

**State Response:**

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**CAA Element 3 - Violations**

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**Finding 3-1**

Area for Improvement

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**Summary:**

OEPA has not met expectations for accuracy of compliance and HPV determinations per the FRV and HPV policies.

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**Explanation:**

Eleven of 20 reviewed files (55%) documented accurate compliance determinations (FRVs). Examples of incorrect compliance determinations include: 1) an HPV was only shown as FRV in ECHO when the facility was missing reports and had exceeded SO2 emission limits; 2) a NESHAP violation should have been reported as an HPV and FRV; 3) OEPA entered NFA, when in actuality there was a penalty. In addition, no HPV and FRV determination was made or reported to ICIS-Air in this instance. The FRV dataflow to ICIS-Air was a programming issue, however, OEPA could still manually report the FRV data until the programming issue was resolved. Ten of 15

reviewed files (66.7%) documented accurate HPV determinations. EPA notes that over the course of federal fiscal years 2017, 2018, and 2019, timely determination and reporting of HPVs into ICIS-Air has held steady at 100%. FRV determination over that same time period, while it has been well above the national averages, may continue to be a source of reporting errors, as explained under Finding 1-1.

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**Relevant metrics:**

<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
13 Timeliness of HPV Identification [GOAL]	100%	83.6%	0	0	0
7a Accurate compliance determinations [GOAL]	100%		11	20	55%
8c Accuracy of HPV determinations [GOAL]	100%		10	15	66.7%

---

**State Response:**

7a. Accurate compliance determinations - During the reporting year, OEPA and EPA discovered that FRVs were not being reported correctly to ICIS-Air due to software issues with the reporting node. This problem was corrected in 2016 and FRVs are now being correctly reported to ICIS-Air, including the NOV's in the review. HPVs were being correctly reported but were not showing as FRVs due to this issue. It does not mean that OEPA did not identify a violation as FRV at TV and SMTV facilities, only that a technical issue prevented that from happening. EPA was aware of this but has failed to acknowledge this in the SRF. 8c. Accurate HPV determinations - OEPA disagrees with EPA analysis. OEPA believes that 16 of the 17 HPV determinations were accurate so 94% and the one that was incorrectly reported OEPA still took enforcement on. EPA didn't explain in enough detail how the conclusions were reached.

---

**Recommendation:**

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Rec #	Due Date	Recommendation
1	06/26/2020	<ul style="list-style-type: none"> <li>• Within 90 days of the final report, EPA will review a selection of cases to determine if FRV determinations and reporting have improved.</li> </ul>
2	05/01/2020	<ul style="list-style-type: none"> <li>• By May 1, 2020, progress on compliance and FRV determinations will be tracked and discussed on the regularly scheduled monthly calls between EPA and OEPA.</li> </ul>

#### CAA Element 4 - Enforcement

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##### Finding 4-1

Meets or Exceeds Expectations

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##### Summary:

OEPA does not always pursue all substantial violations within the 180-day timeframe per the revised HPV policy. However, OEPA does provide to EPA for each State lead HPV a Case Development and Resolution Timeline on the monthly compliance and enforcement conference calls held between our agencies. In addition, OEPA holds conference calls with all of their district offices and local air agencies which they express the importance of addressing violations in a timely manner and elevating all HPV cases immediately to OEPA Central Office.

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##### Explanation:

Seven of 7 (100%) HPV cases had a Case Development and Resolution Timeline in place. Seven of 7 (100%) HPV Case Development and Resolution Timeline contained the required policy elements.

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##### Relevant metrics:

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		7	8	87.5%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		7	8	87.5%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		7	8	87.5%
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule [GOAL]	100%		8	8	100%

**State Response:**

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**CAA Element 5 - Penalties**

---

**Finding 5-1**

Meets or Exceeds Expectations

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**Summary:**

OEPA met expectations for documentation of gravity and economic benefit in its penalty calculations, as well as documentation of the difference between the initial and final penalty. Six of 7 reviewed penalties (85.7%) included proof that the penalty was collected.

---

**Explanation:**

Six of 7 (85.7%) reviewed penalties included documentation of documentation of gravity and economic benefit. Seven of 7 (100%) included documentation of the difference between the initial and final penalty. Sufficient information was available to document collection of penalties.

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**Relevant metrics:**

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<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		6	7	85.7%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		7	7	100%

**State Response:**

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# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Area for Improvement

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#### Summary:

Based on the 30 files reviewed, OEPA has not met the national goal of 100% for complete and accurate entry of mandatory data.

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#### Explanation:

Twenty-One of 30 files (70%) were completely and accurately reflected in RCRAInfo. Nine of the 30 files were incomplete and inaccurately reflected in RCRAInfo. The incomplete and inaccuracies noted included: 1) one focus compliance inspection not entered; 2) one compliance evaluation inspection not entered; 3) two case files where the current facility name not updated in RCRAInfo; 4) four case files where federal violations were not linked to significant noncompliance status; 5) one missing 210 Initial Directors Findings and Order (DF&O); 6) one missing 310 Directors Final Findings and Order (DFF&O); one missing notice of violation (NOV); and eleven missing collection of penalty values.

Since the SRF, EPA conducted two (2) mid-year reviews, FY2018 and FY2019, which showed OEPA's completed reporting of the mandatory required data elements at 83% and accuracy at 96% entry into RCRAInfo. OEPA addressed the initial finding from the SRF.

---

#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2a Long-standing secondary violators					98
2b Accurate entry of mandatory data [GOAL]	100%		21	30	70%

---

#### State Response:

This report was conducted for the review period October 1, 2015 to September 30, 2016. Since that time, Ohio's hazardous waste program has been reorganized and a renewed emphasis on consistently and accurately recording information has been made. In March 2018, we began re-centralization of CME data entry. The Central Office data entry staff have a training plan that not only includes the data entry manual but also the inspection procedures manual. Work also gets double checked by a VA staff member. An example of a new policy procedure is the linking of all violations under the significant noncompliance status when a significant non-complier determination is made.

---

**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"><li>• Progress will continue to be monitored by EPA through QA/QC of quarterly data pulls from RCRAInfo.</li></ul>

---

**RCRA Element 2 - Inspections**

---

**Finding 2-1**

Meets or Exceeds Expectations

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**Summary:**

OEPA has met national goals for TSDF and LQG inspections.

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**Explanation:**

OEPA conducted 33 of 34 inspections (97.10%) at TSDFs with operating permits. 201 of 987 inspections (20.40%) were completed at LQGs. OEPA met the 5-year inspection coverage commitment for LQGs, if you factor in the approved inspection flexibility plan that allowed them to inspect non-traditional LQGs. OEPA specifically requested in their plan to differentiate nontraditional retail pharmacies that have notified as LQGs from the universe of traditional LQGs, and to inspect 5% of the nontraditional LQG universe each year while continuing to inspect 20% of the traditional LQG universe.

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**Relevant metrics:**

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Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	90.3%	33	34	97.1%
5b Annual inspection of LQGs using BR universe [GOAL]	20%	17.1%	201	987	20.4%
5d One-year count of SQGs with inspections [GOAL]		9.9%	245	7976	3.1%
5e1 Five year inspection coverage of active conditionally exempt SQGs.					845
5e2 Five year inspection coverage at other sites (Transporters).					32
5e3 Five year inspection coverage at other sites (non-notifiers).					9
5e4 Five year inspection coverage at other sites (not covered by metrics 5a-5e3).					1139

**State Response:**

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## RCRA Element 2 - Inspections

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### Finding 2-2

Area for Improvement

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#### Summary:

OEPA has not met the national goal of 100% in providing timely, complete and sufficient inspection reports.

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#### Explanation:

Nineteen of 29 reviewed inspection reports (65.5%) were considered complete and provided sufficient documentation to determine compliance at the site. Twenty-five of 29 reviewed inspection reports (86.2%) were completed in a timely manner. For the timeliness standard, 150 days from Day Zero was used per the RCRA review checklist.

Since the SRF, OEPA addressed the initial findings from the SRF. See detailed explanation in State's response below. EPA will continue to monitor OEPA progress through FY2020.

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%		19	29	65.5%
6b Timeliness of inspection report completion [GOAL]	100%		25	29	86.2%

**State Response:**

Since the draft SRF report, OEPA has held additional training on inspections and more emphasis placed on meeting the 30-day turnaround for the Compliance Letter policy. If the 30-day turnaround time will be exceeded, the Central Office Hazardous Waste Compliance Assurance Section manager must be notified with an explanation to the delay. There are legitimate circumstances that prevent the 30-day turnaround to be met, however, the goal is to keep those exceptions to a minimum. OEPA launched The Inspector Training Academy in January 2017 which is mandatory for all agency inspectors. OEPA Division of Environmental Response and Revitalization also provides hazardous waste-specific training during our semi-annual Hazardous Waste Forums. OEPA held forums on October 26, 2016; May 3, 2017; October 25, 2017; May 9, 2018; October 17, 2018; and May 23, 2019. Another one is planned for November 2019 but the date has not yet been confirmed yet.

**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"> <li>Progress will continue to be monitored by EPA through quarterly conference communications, mid-year file reviews and end of year (EOY) reports.</li> </ul>

**RCRA Element 3 - Violations**

**Finding 3-1**

## Area for Attention

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### Summary:

OEPA did not meet national goals for accurate compliance determinations, appropriate SNC determinations, and timeliness of SNC determinations.

---

### Explanation:

Based on RCRAInfo and ECHO data pulls, OEPA found one or more violations at 235 of the 450 sites. Both OEPA's rate of violations found (52.20 %) and the SNC identification rate of 2.40% were determined to be above the national average. Twenty-four of 30 reviewed files (80%) had accurate compliance determinations. Twenty-four of 30 reviewed files (80%) had appropriate SNC determinations. Note: OEPA strives to ensure proper appropriateness of SNC determinations, accurate violation determinations, and timely SNC determinations. However, practices, case development, and evidence gathering does not always make it possible to meet the established timelines. EPA believes that OEPA can improve in these areas on its own without recommendations, and will monitor progress through quarterly conference communications, mid-year file reviews, and end of year (EOY) reports.

---

### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2a Long-standing secondary violators					98
7a Accurate compliance determinations [GOAL]	100%		24	30	80%
7b Violations found during CEI and FCI inspections		35.9%	235	450	52.2%
8a SNC identification rate at sites with CEI and FCI		2.1%	11	450	2.4%
8c Appropriate SNC determinations [GOAL]	100%		24	30	80%

---

### State Response:

New policies have been implemented for enforcement referrals from the District Offices to Central Office which should decrease the time to determine a significant noncomplier.

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## RCRA Element 3 - Violations

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**Finding 3-2**Area for Improvement

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**Summary:**OEPA did not meet national goals for timeliness of SNC determinations.

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**Explanation:**OEPA made SNC determinations in a timely manner in only 50% of the cases (9 of 18).

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
8b Timeliness of SNC determinations [GOAL]	100%	84%	9	18	50%

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**State Response:**

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**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"><li>By May 1, 2020, EPA and OEPA will identify the cause(s) of SNC determination timeliness issues and begin working to develop a solution to improve timeliness.</li></ul>
2	05/01/2021	<ul style="list-style-type: none"><li>Within a year of above, EPA will pull data to monitor progress in improving SNC determination timeliness. These recommendations will be closed out when progress is at or above 85%.</li></ul>

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**RCRA Element 4 - Enforcement**

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**Finding 4-1**Area for Attention

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**Summary:**

OEPA did not meet expectations for conducting timely enforcement to address significant non-compliance.

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**Explanation:**

Twenty-six of 30 reviewed enforcement responses returned violators to compliance (87%). Twenty-seven of 30 reviewed enforcement responses were deemed appropriate to address violations (90%). Ten of 16 enforcement actions were implemented within 360 days of day zero (63%). Note: OEPA strives to ensure timely enforcement to address SNCs. However, practices, case development, and evidence gathering does not always make it possible to meet the established timelines goals. EPA believes that OEPA can improve timeliness on its own without recommendations, and will monitor progress through quarterly conference communications, mid-year file reviews, and end of year (EOY) reports.

---

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10a Timely enforcement taken to address SNC [GOAL]	80%	86.4%	10	16	63%
10b Appropriate enforcement taken to address violations [GOAL]	100%		27	30	90%
9a Enforcement that returns sites to compliance [GOAL]	100%		26	30	86.7%

---

**State Response:**

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**RCRA Element 5 - Penalties**

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**Finding 5-1**

Area for Improvement

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**Summary:**

OEPA has not met expectations for documenting gravity and economic benefit, as well as the difference between the initial and final penalty. Also, OEPA is not adequately documenting that penalties have been collected.

---

**Explanation:**

Only two of 13 reviewed penalty calculations (15.4%) included gravity and economic benefit values. Two of 13 reviewed penalty calculations (15.4%) reviewed documented rationale for final penalty assessments. None of the 13 (0%) OEPA penalty files reviewed included documentation of OEPA collection of penalty. OEPA collection of penalty was not reflected in national data systems.

Since the SRF, OEPA has addressed the initial finding from the SRF. See detailed explanation in the State's response below. EPA will continue to monitor OEPA progress through FY2020.

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**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
11a Gravity and economic benefit [GOAL]	100%		2	13	15.4%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		2	13	15.4%
12b Penalty collection [GOAL]	100%		0	13	0%

---

**State Response:**

A new form was developed to ensure for differences in initial penalty and final penalty collection so that the information can be better placed into RCRAInfo. Ohio's hazardous waste program has individual penalty sheets which documents gravity and economic benefit penalty calculations. However, completed penalty sheets are attorney-client privileged documents and cannot be released to the public.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	05/01/2020	<ul style="list-style-type: none"> <li>Progress will continue to be monitored by EPA Region 5 during quarterly conference calls, mid-year reviews and EOY reports</li> </ul>

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