

# **STATE REVIEW FRAMEWORK**

**Arizona**

**Maricopa County Air Quality District**

**Clean Air Act  
Implementation in Federal Fiscal Year 2017**

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

**Final Report  
October 8, 2019**

# 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 is 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 Air Act (CAA)**

Review Year: FY 2017. File Review dates: August 27-29, 2018. MCAQD Key Contacts: Maria Cody, MCAQD Compliance and Enforcement Division Manager. EPA Reviewers: Janice Chan, and Daniel Haskell.

# Executive Summary

## Introduction

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### Clean Air Act (CAA)

The vast majority of CAA Title V sources in the State of Arizona are located within the jurisdictions of both the Arizona Department of Environment Quality (ADEQ) as well as the Maricopa County Air Quality District (MCAQD). Four years ago, EPA conducted an SRF review of ADEQ. Eight years ago, EPA conducted an SRF review of MCAQD. For this review, in order to ensure oversight for the majority of major sources in Arizona over a four-year period, EPA selected MCAQD. EPA based SRF findings on data and file review metrics, and conversations with program management and staff at MCAQD. 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

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

#### Clean Air Act (CAA)

- MCAQD evaluates Air Compliance Monitoring Strategy (CMS) sources on a more frequent basis than the minimum evaluation frequencies recommended in the CMS Policy.
- MCAQD has an accurate CMS source universe.

### 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 Air Act (CAA)

- Data Reporting/Timeliness: MCAQD reporting of data into ICIS-Air is inconsistent. Information on Opportunities to Correct (OTCs), Notices of Violations (NOVs), and

Federally Reportable Violations (FRVs) taken to return facilities to compliance was missing from ICIS-Air and the electronic files.

- Lack of FRVs and High Priority Violations (HPVs) identification: While MCAQD consistently provided dates of annual Full Compliance Evaluations (FCEs) at its facilities in its electronic filing system and in ICIS-Air, information on Partial Compliance Evaluations (PCEs), other informal violations, and some FRVs and HPVs was missing from its electronic filing system and ICIS-Air.
- Inclusion of Economic Benefit and Gravity in Penalties: MCAQD penalties did not consistently demonstrate consideration of economic benefit and gravity in their calculations.

# Clean Air Act Findings

## CAA Element 1 - Data

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### Finding 1-1

#### Area for Improvement

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#### Summary:

The file review indicated that information reported into ICIS-Air was inconsistent with the information found in the files reviewed.

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#### Explanation:

Metric 2b evaluates the completeness and accuracy of reported Minimum Data Requirements (MDRs) in ICIS-Air. Timeliness is measured using the date of the activity and the date the activity is reported to ICIS-Air. The national goal is to accurately report 100% of data in ICIS-Air. We reviewed 30 files for data accuracy. We found that, with the exception of the facility identifiers and FCE dates, none of the other reviewed data in the files was accurately reported.

- Facility identifiers that were related to facility information (names, addresses, contact phone numbers, CMS information, pollutants, operating status, etc.) were correctly reported.
- Dates of most annual FCE performed, when applicable, were also correctly reported. In instances where there were follow-up inspections based on complaints, the inspection was reported as both a PCE and an FCE with dates of inspection correctly reported.
- Information and activity data related to steps taken after the performance of FCEs were missing (e.g., stack test dates were often not reported, and stack test results were never reported to ICIS-Air). It was unclear at the time of the interviews of the root cause to not include this information. We request MCAQD diagnose the root cause and address it in a Standard Operating Plan (SOP), as identified in the Recommendation below. Incorrect and missing data in ICIS-Air potentially hinders targeting efforts, and results in inaccurate and incomplete information being released to the public.

Metric 3a2 measures whether HPV determinations are entered into ICIS-Air in a timely manner (within 60 days) in accordance with the FY 2017 ICIS-Air requirements. The metric indicates that there were no HPVs reported. During interviews, MCAQD staff explained that they have not found violations considered to be HPVs.

Metric 3b1 measures the timeliness for reporting compliance-related MDRs (FCEs and Reviews of Title V Annual Compliance Certifications (ACCs)). Out of 31 files reviewed, MCAQD reported 22 of the facilities (71.0%) within 60 days, while the national goal is to report 100% within 60 days. Note: The 71.0% achievement rate noted in the table below differs from what was calculated using the frozen data set, because the percentage is based on the number of files reviewed.

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. While 15 facilities performed stack testing, none (0.0%) were reported within 120 days.

Metric 3b3 measures timeliness for reporting enforcement-related MDRs within 60 days of the action. MCAQD did not report any MDRs in ICIS-Air. This missing enforcement MDR reporting resulted in none reported within 60 days (0.0%), which is below the national goal of 100%.

We request MCAQD diagnose the root cause, including inefficient processing of information from file to ICIS-Air, and address it in a SOP, as recommended below.

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**MCAQD Response:**

MCAQD concurs with EPA recommendations.

- MCAQD compliance staff will complete the on-line inspector WIKI, HPV and FRV Policy training by 6/30/20. MCAQD requests (and EPA agrees) EPA to visit MCAQD to provide in person comprehensive WIKI/HPV/FRV training for Title V inspectors, performance test engineers, enforcement and associated supervisors; training requested to occur by 12/31/20.
- MCAQD will participate in quarterly meetings, schedule to be determined by EPA (participants to include Title V inspectors, performance test engineers, ICIS-Air reporters and associated supervisors).
- MCAQD will develop a new comprehensive SOP regarding the reporting of MDR data (to include performance/stack testing and compliance protocols, and completeness of data submitted). Coordination between all three MCAQD divisions responsible for these processes has already been initiated. The final SOP will be incorporated into MCAQD's new Impact database by 12/31/2021, to further streamline the timely and accurate reporting of ICIS data.
- MCAQD will develop a new comprehensive SOP regarding the reporting of MDR data (to include performance/stack testing and compliance protocols, and completeness of data submitted). Coordination between all three MCAQD divisions responsible for these processes has already been initiated. The final SOP will be incorporated into MCAQD's new Impact database by 12/31/2021, to further streamline the timely and accurate reporting of ICIS data.

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**Recommendations:** See following.

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<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	6/30/2020	MCAQD staff will have Inspector WIKI training (go to <a href="https://wiki.epa.gov/inspector">https://wiki.epa.gov/inspector</a> and click on the “self-register” line above the user name field) as well as HPV and FRV Policy Training.
2	12/31/2020	EPA will follow up on the training in Recommendation 1 by visiting MCAQD for an in person comprehensive WIKI/HPV/FRV training for the following staff: Title V inspectors, performance test engineers, enforcement and associated supervisors.
3	6/30/2020	MCAQD will have quarterly meetings with Region 9 to discuss HPV and FRV requirements, data entry progress and challenges, and ongoing MCAQD questions and issues. This schedule is to be determined by EPA. Participants will include the following staff categories: Title V inspectors, performance test engineers, ICIS-Air reporters and associated supervisors.
4	06/30/2020	MCAQD will develop a Standard Operating Procedure (SOP) regarding the reporting of MDR data into ICIS-Air in a complete, timely, and accurate manner within 90 days of finalization of this report for EPA to approve. Thereafter, MCAQD will follow the SOP’s data reporting processes and Region 9 will review/monitor MCAQD’s data reporting throughout calendar year 2020 and will hold quarterly calls to discuss such reporting. If EPA determines the data reporting has sufficiently improved (i.e., complete, timely, accurate), the Recommendation will be deemed complete.
5	06/30/2020	MCAQD will develop an SOP concerning the review of stack test reports and the complete/timely data reporting of stack test dates and results, i.e., into ICIS-Air within 90 days of finalization of this report for EPA to approve. Region 9 will monitor/review stack test data entries throughout calendar year 2020 and reviewing a sample of stack test reports to ensure timely, complete, and accurate review and reporting by MCAQD. If EPA determines MCAQD’s review and reporting of stack tests has sufficiently improved (i.e., complete, timely, accurate), the Recommendation will be deemed complete.

**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%	%	7	30	23.3%
3a2 Timely reporting of HPV determinations [GOAL]	100%	44.9	0	0	0
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	85.2	22	31	71%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	65.1	0	15	0%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	71.8	0	7	0%

**CAA Element 2 - Inspections**

**Finding 2-1**

Meets or Exceeds Expectations

**Summary:**

MCAQD has conducted FCEs of CMS source universe for Maricopa County, Arizona, that exceeds expectations.

**Explanation:**

This element evaluates whether the negotiated frequency for compliance evaluations is being met for each source. MCAQD met the national goal for the relevant metrics. MCAQD met the negotiated frequency for conducting FCEs of Title V Major Sources, Mega-Sites, and SM80s. MCAQD ensured each major source was evaluated with an FCE once every two years, each Mega-Site once every three years, and each SM80 once every five years. EPA commends MCAQD for FCEs at major facilities. MCAQD kept the CMS source universes and CMS plan up-to-date in ICIS-Air. MCAQD actively inspects non-major sources to determine whether they need a Title V permit.

**MCAQD Response:** N/A

**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%	88.1	20	22	90.9%
5b FCE coverage: SM-80s [GOAL]	100%	93.7%	10	10	100%
5c FCE coverage: minors and synthetic minors (non-SM 80s) that are part of CMS plan or alternative CMS Plan [GOAL]	100%	70.1	1	1	100%

**CAA Element 2 - Inspections**

**Finding 2-2**

Area for Improvement

**Summary:**

MCAQD completed the required reviews for each Title V ACC. However, MCAQD did not report the entire universe into ICIS-Air, resulting less than 100% achievement rate in metrics.

**Explanation:**

This element evaluates whether the delegated agency has completed the required review for Title V ACC. Based on 29 files reviewed, MCAQD completed the required reviews for each of Title V ACC as part of annual FCEs for all facilities. However, MCAQD reported only 21 of the facilities (72.4%) as having been reviewed in ICIS-Air. MCAQD inaccurately reported the review in ICIS-Air, which is referred to in Finding 1-1. Addressing Finding 1-1 will address Finding 2-2.

**MCAQD Response:**

MCAQD concurs with the recommendations listed. The first two recommendations are in progress and the third will be determined by EPA.

**Recommendation:** See following.

Rec #	Due Date	Recommendation
1	06/30/2020	<p>We recommend the following:</p> <ul style="list-style-type: none"> <li>• MCAQD report all Title V ACCs into ICIS Air.</li> <li>• Within 90 days of issuance of this report, all reviews that were not reported need to be entered into ICIS-Air.</li> <li>• EPA will monitor/review ACC reporting and if by the end of calendar year 2020, EPA determines ACC reporting is complete/timely, this Recommendation will be deemed complete.</li> </ul>

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	76.7%	21	29	72.4%

**CAA Element 2 - Inspections**

**Finding 2-3**

Area for Improvement

**Summary:**

MCAQD compliance monitoring reports (CMRs) were inadequate. Relevant information, such as source testing performed by the facility, or conducted by or observed by MCAQD, was lacking.

**Explanation:**

Out of 28 files reviewed, four CMRs were incomplete and lacked enough detail to determine whether MCAQD reviewed a facility's compliance completely and accurately. For instance, in files where stack testing was applicable, none of the reports addressed stack test reports from the facility. Per EPA policy, stack test report reviews are needed to complete an FCE. Additionally, inspection reports did not include enforcement history, a basic element that should be included per the CMS Policy. The Finding for 2-3 is an Area for Improvement because files were incomplete, and accurate determination on whether facilities are in compliance could not be made.

**MCAQD Response:**

MCAQD concurs with the recommendation – in progress; MCAQD will ensure that information such as source testing and compliance history always be included in the File Review section of

the inspection report where relevant. A spreadsheet is currently developed for use by each inspector for their respective Title V and Synthetic Minor: Airs sources listed. The spreadsheet will act as a checklist of relevant items to be included in the File Review section of the inspection report. The checklist will also include submittal of the preliminary and final HPV/FRV checklist and submittal of each Title V Certification Report Review Checklist. Transition to the new Impact database will also allow for streamlining of these reporting requirements.

**Recommendation:**

Rec #	Due Date	Recommendation
1	06/30/2020	<p>Within 90 days of issuance of this report, MCAQD will provide EPA with a revised report format/template that is consistent with the CMS (e.g., include enforcement history). MCAQD will include in such reports sufficient information to make a compliance determination. Rather than including a finding of “in compliance” within the inspection reports, MCAQD may alternately include “no violation observed.”</p> <p>EPA will review a subset of MCAQD’s reports and the new spreadsheet throughout calendar year 2020 and if EPA determines the reports are sufficient for determining compliance and consistent with the CMS, this Recommendation will be deemed complete.</p>

**Relevant metrics:**

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Documentation of FCE elements [GOAL]	100%	%	23	28	82.1%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%	%	24	28	85.7%

## CAA Element 3 - Violations

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### Finding 3-1

Area for Improvement

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#### Summary:

Compliance determinations are accurately made in most instances. However, they are often not reported into ICIS-Air based on the CMRs and other compliance monitoring information reviewed.

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#### Explanation:

Metric 7a is designed to evaluate the overall accuracy of compliance determinations. Metric 8c focuses on the accurate identification of violations that are determined to be HPVs.

MCAQD incorrectly reported one violation as an HPV into ICIS-Air, and the file review indicated the HPV had not been reported accurately. The incorrect HPV was inadvertently reported to ICIS-Air. MCAQD did not find other violations considered HPVs.

MCAQD has an HPV and FRV checklist to assist inspectors in determining HPVs and FRVs. MCAQD has identified FRVs by using the checklist. The checklist does not appear to be utilized consistently in distinguishing FRVs from HPVs. MCAQD stated to reviewers that all FRVs were treated as HPVs. HPVs are a “subset” of FRVs and, as more significant violations that meet the HPV criteria, are treated differently and must be reported accordingly into ICIS-Air. Failure to do so runs counter to the MDRs/reporting requirements. Identifying HPV violations according to EPA policy could help identify appropriate corrective actions to be taken and improve their timeliness. MCAQD should consider providing copies of the revised SOPs to the workforce in order to clarify that not all FRVs are HPVs.

MCAQD issues OTCs and notices of violation (NOVs), which are considered informal enforcement actions if they are not FRVs. An OTC could also be an FRV, where applicable. MCAQD provides OTCs as a warning for violations of Arizona state and not federal law. OTCs should be quickly correctible. If the facility fails to correct the violation within the reasonable time period, then MCAQD issues an NOV. MCAQD does not require a penalty for an OTC if the facility is a first-time violator. MCAQD requires a penalty for repeat violators with an OTC. MCAQD has not reported the OTCs in ICIS-Air, though EPA policy is to report all informal and formal enforcement actions into ICIS-Air.

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#### MCAQD Response:

- MCAQD concurs with the 3 recommendations which follow.
- MCAQD staff will take FRV and HPV training provided by Region 9 within 90 days of issuance of the final report.
- Regarding recommendations 2 and 3, in October 2018, the division developed inspections/enforcement workflow and associated SOP to address the issues and implemented the process in November 2018.

- MCAQD will provide a copy of this SOP to EPA for review. MCAQD staff have already been trained on the current SOP and the division has been following this SOP since the beginning of November 2018.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	MCAQD will take FRV and HPV training provided by Region 9 within 90 days of issuance of the final report.
2	03/31/2020	MCAQD will develop an SOP on reviewing reports for accuracy, timeliness and compliance determinations, including peer review. <b>Complete as of November 2018 – see State Response.</b>
3	06/30/2020	<ul style="list-style-type: none"> <li>• EPA will review and approve the SOP</li> <li>• MCAQD will train MCAQD workforce on the updated SOP.</li> </ul> <b>Complete as of November 2018 – see State Response.</b>

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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>
7a Accurate compliance determinations [GOAL]	100%	%	21	26	80.8%
8c Accuracy of HPV determinations [GOAL]	100%	%	18	21	85.7%

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**CAA Element 4 - Enforcement**

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**Finding 4-1**

Area for Improvement

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**Summary:**

EPA review found that MCAQD's enforcement actions returned the facilities to compliance in a timely and appropriate manner. However, MCAQD did not report HPVs. Other enforcement actions and documented return to compliance were timely and appropriate.

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**Explanation:**

Out of 31 files reviewed, EPA found five case files containing OTCs and NOVs, considered informal enforcement actions for various source categories. EPA review confirmed appropriate formal enforcement and penalties for non-compliance. Four out of these five files were Title V facilities. MCAQD took steps to return the facility to compliance and proceeded with penalty actions within a year.

Metric 9a is designed to evaluate whether the agency takes formal enforcement actions that return facilities to compliance. MCAQD takes formal enforcement actions on non-compliance found during FCEs, and the files showed no non-compliances based on FCEs.

Once MCAQD issued enforcement actions with five OTCs or NOVs and two FRVs, our review showed MCAQD documented that all the facilities returned to compliance in a timely manner and paid penalties where appropriate. MCAQD should ensure all enforcement responses (formal NOVs, field citations, warnings, informal NOVs or OTCs, and settlements and actions) are reported into ICIS-Air.

Metric 10a is designed to evaluate the extent to which the agency takes timely action to address HPVs. Apart from the mis-reported HPV into ICIS-Air. MCAQD did not consider violations as HPVs, per its HPV checklist.

Metric 10b is designed to evaluate the extent to which the agency takes appropriate enforcement responses for HPVs.

MCAQD did not meet the national goal of 100% for Metrics 10a and 10b because of a discrepancy in one file due to misreporting HPVs into ICIS-Air when they were either an FRV or other violation. These discrepancy in reporting means that the public may see inaccurate results for facilities in ECHO.

The root cause of this finding is likely due to the need for MCAQD to have HPV and FRV policy training in order to accurately identify HPVs from FRVs, and that enforcement actions are appropriate.

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**State Response:**

MCAQD concurs with the recommendation below.

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**Recommendations:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	MCAQD to take FRV and HPV training provided by Region 9 within 90 days of issuance of the final report, as addressed in Element 3.

**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>
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%	%	0	1	0%
10b Percent of HPVs that have been have been addressed or removed consistent with the HPV Policy [GOAL]	100%	%	0	1	0%
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%	%	4	5	80%

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14 HPV Case Development and Resolution Timeline (CD&RT) contains required policy elements	100%	%	0	1	0.0%
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## CAA Element 5 - Penalties

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### Finding 5-1

Area for Improvement

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#### Summary:

MCAQD files lacked appropriate penalty calculations and did not include gravity or economic benefit calculations.

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#### Explanation:

Where the one file with penalties were provided for NOV's and FRV's, the penalty calculations (including gravity and economic benefit) were not provided as part of the file. Only the final penalty amount was included in the file. Based on interviews with MCAQD staff, MCAQD policy includes economic benefit/avoided cost and gravity. MCAQD should ensure to fully document penalty calculations, including economic benefit and gravity, in their files.

Metric 12a is designed to evaluate the extent to which the agency documents the rationale for the difference between initial and final penalty. Of the two files reviewed, one showed initial penalty amounts appropriate for the minor violations resulting in a NOV for. However, we did not see the adjustments made for final penalty amounts included in the file. The other file documented the adjustment but did not provide calculations for the difference in initial and final penalties. MCAQD is aware that complete files within their system may not be electronically uploaded, and possibly missing penalty calculations. MCAQD is developing a procedure to provide all files from the inspector to the case developer and have the case developer timely upload all associated documents when closing the case.

Metric 12b is designed to evaluate whether there is documentation that the final penalty was collected. Out of five files reviewed, four files showed the date of receipt of penalty payments from respondents. Note: One file indicates that penalties were not collected. This file has a discrepancy between what is in the file, and what is reported into ICIS-Air. In the file, there was no violation found, and therefore no enforcement action and no penalty. In ICIS-Air, an HPV was reported with no penalty paid.

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**State Response:**

MCAQD concurs with the two recommendations below.

- MCAQD will submit a draft SOP to include the penalty calculation, documentation of rationale between initial and final penalties, and penalty collection amount.
- The schedule for recommendation 2 to be determined by EPA.

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**Recommendation:**

Rec #	Due Date	Recommendation
1	12/31/2019	MCAQD will submit to EPA for review and approval an SOP to include the penalty calculation, documentation of rationale between initial and final penalties, and penalty collection documentation.
2	03/31/2020	EPA will conduct a mini SRF, selecting 5 to 10 files with penalties to review, to ensure MCAQD is implementing the SOP, schedule to be determined by 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>
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%	%	0	1	0%
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%	%	1	2	50%
12b Penalties collected [GOAL]	100%	%	4	5	80%

# **STATE REVIEW FRAMEWORK**

## **Arizona**

### **Clean Water Act Implementation in Federal Fiscal Year 2017**

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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.

Recommendations 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)**

CWA Key Dates: On-site file review conducted September 25 - 28, 2018

CWA EPA Key Contacts: Susanne Perkins, Liliana Christophe, Lawrence Torres

CWA State Key Contact: Andy Koester, Mindi Cross

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

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

# Executive Summary

## Introduction

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### Clean Water Act (CWA)

EPA Region 9 CWA enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Arizona Department of Environmental Quality in 2018.

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 and publish reports and recommendations in EPA's SRF Manager Database.

### 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)

- Arizona exceeded both the national average and the national goal for entry of permit limit and discharge monitoring report (DMR) data for major and non-major facilities into EPA's national data base, Integrated Compliance Information System (ICIS).

### 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)

- Arizona entered inspection and enforcement data accurately into ICIS in 15% of the files reviewed. This is a recurring finding from previous reviews of Arizona's NPDES program.
- Thirty-nine percent of the reviewed inspection reports were found complete enough to determine compliance at the facility.
- Only 13 of the 23 inspection reports reviewed by EPA were dated or completed within recommended timelines for completing an inspection report.

- Forty-four percent of the inspection reports reviewed provide enough information to evaluate the accuracy of the compliance determinations.
- Sixty-two percent of the reviewed enforcement actions resulted in a return to compliance. This is a recurring finding from previous reviews of Arizona’s NPDES program.
- Enforcement actions taken at major and non-major facilities are not appropriate. This is a recurring finding from previous reviews of Arizona’s NPDES program.

## Clean Water Act Findings

### CWA Element 1 – Data

#### **Metric 1b: Completeness and accuracy of permit limit and discharge data in EPA’s national database.**

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#### **Finding 1-1**

Meets or Exceeds Expectations

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#### **Summary:**

Arizona exceeded both the national average and the national goal for entry of permit limit and discharge monitoring report (DMR) data for major and non-major facilities into EPA’s national data base, Integrated Compliance Information System (ICIS).

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#### **Explanation:**

Metrics 1b1 and 1b2 measure the state’s rate of entering permit limits and DMR data into ICIS.

ADEQ entered 96.3% of permit limits into ICIS for major and non-major facilities, exceeding both EPA’s national goal of 95% and the national average of 88.1%.

ADEQ entered 99.3% of DMR data into ICIS, exceeding both EPA’s national goal of 95% and the national average of 90.6%.

EPA notes ADEQ did not verify the FY17 data before it was frozen for the SRF review. Had the data been verified, the accidental deletion of the NPDES G3A Data Group for DMRS would have been caught and corrected in ICIS. ADEQ should periodically validate data to ensure the regulated universe and ADEQ’s activities are accurately reflected in ICIS.

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#### **State Response:**

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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>
1b5 Completeness of data entry on major and non-major permit limits. [GOAL]	95%	88.1%	133	138	96.3%
1b6 Completeness of data entry on major and non-major discharge monitoring reports. [GOAL]	95%	90.6%	4044	4073	99.3%

## **CWA Element 1 – Data**

### **Metric 2b: Completeness and accuracy of inspections and enforcement action data in EPA’s national database.**

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#### **Finding 1-2**

Area for Improvement

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#### **Summary:**

Arizona entered inspection and enforcement data accurately into ICIS in 15% of the files reviewed. This is a recurring finding from previous reviews of Arizona’s NPDES program.

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#### **Explanation:**

Under metric 2b, EPA compared inspection reports and enforcement actions found in selected files to determine if the inspections, inspection findings, and enforcement actions were accurately entered in ICIS. The analysis was limited to data elements mandated in EPA’s ICIS data management policies. States are not required to enter inspections or enforcement actions for certain classes of facilities.

EPA found 3 of the 20 files reviewed (15%) had all required information (facility location, inspection, violation, and enforcement action information) accurately entered in ICIS. Missing or incorrect facility information (addresses unknown or not matching permit, longitude/latitude missing) and unreported or incorrect enforcement actions, violations, single event violations (SEVs), and inspections were the most frequently cited data accuracy issues. Arizona’s accuracy rate of 15% is well below the national goal of 100%.

The results are skewed because ADEQ did not verify the FY17 data before it was frozen for the SRF review. Had the data been verified, the errors may have been spotted and corrected. EPA also notes ADEQ does not enter SEVs in EPA’s ICIS database. However, ADEQ has a robust system for tracking SEVs in the Inspection, Compliance and Enforcement (ICE) module of the state’s AZURITE database. Three of the 17 deficient files were cited only because SEVs were not entered in ICIS.

The same finding for Metric 2b was identified in Rounds 1, 2, and 3 of the SRF. (Metric 2b was 52.4% in Round 3.) ADEQ did not adequately implement EPA’s Round 3 recommendation “to ensure all relevant NPDES permit, compliance and enforcement information, including inspections, enforcement actions, and violations, is entered and regularly flowing into ICIS in accordance with EPA’s data entry requirements.”

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**State Response:**

- ADEQ has initiated a quarterly data integrity evaluation of information flowing from ADEQ’s database to the EPA ICIS database. The information checked includes the total universe of permits, violations, and inspections. ADEQ has confirmed the data is flowing into ICIS correctly.
- ADEQ will conduct a yearly annual data verification check and will develop standard work to sustain this annual verification.
- ADEQ will perform a root-cause analysis of remaining data flow issues, as scheduled in the table of recommendations, to resolve any new problems discovered in this SRF. As part of that analysis, ADEQ requests the data reviewed by EPA so ADEQ can determine what precisely was inaccurate.
- ADEQ tracks SEVs in the state database and takes appropriate enforcement actions. ADEQ understands the EPA is finalizing new SEV codes for transfer of data between the State’s database and the EPA ICIS database. ADEQ would prefer to wait until new codes are finalized before developing a new transfer system that will require an IT project.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	ADEQ will investigate the data flow problems contributing to the missing data in ICIS and submit a Root Cause Analysis to EPA for review and comment. It will include a detailed discussion of the investigation of the root problem, a summary of the issues contributing to the problem, and a data entry plan with milestones to address the issues and correct the problem by June 30, 2020.
2	6/30/2020	ADEQ shall fully implement the data entry plan.
3	9/30/2020	EPA will evaluate the completeness and accuracy of ADEQ’s data entry of inspections and enforcement actions into ICIS.

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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>
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%	N/A	3	20	15%

## **CWA Element 2 – Inspections**

### **Metrics 4a, 5a, and 5b: Inspection coverage compared to state workplan commitments.**

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#### **Finding 2-1**

Area for Attention

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#### **Summary:**

Arizona met or exceeded its inspection commitments in its Clean Water Act Section 106 grant workplan for 8 of 10 inspection categories. Arizona did not conduct any of the 6 inspection commitments for SSO inspections.

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#### **Explanation:**

Metrics 4a, 5a, and 5b measure the number of inspections completed by the state in the State Fiscal Year 2017 (SFY17) compared to the commitments in ADEQ's Clean Water Act Section 106 grant workplan. EPA Region 9 established workplan inspection commitments for Arizona consistent with the inspection frequency goals established in EPA's 2014 Compliance Monitoring Strategy (CMS). ADEQ inspected 25 major facilities and 19 minor facilities during the review year, exceeding the CMS-based workplan commitments of 19 major and 11 minor inspections.

ADEQ conducted 61 industrial and 71 construction stormwater inspections, exceeding its targets of 50 industrial and 37 construction stormwater inspections. The national stormwater CMS goals require inspecting at least 10% each of the industrial stormwater (120 of 1,196 sites in SFY17) and construction stormwater (397 of 3,968 sites in SFY17) universes. Arizona has an alternate CMS for its annual stormwater inspection goals and is increasing its targets each year to eventually reach national CMS goals.

ADEQ met most of its CMS-based workplan commitments for other inspections, completing 8 pretreatment compliance inspections, 4 pretreatment compliance audits, and 8 municipal stormwater program inspections.

For metric 4a2, ADEQ conducts significant industrial user (SIU) oversight inspections of publicly-owned treatment works (POTW) with a SIU once every 5 years. Since Arizona's one facility did not require inspection in SFY17, ADEQ set its target to zero SIU inspections.

For metric 4a4, Arizona does not have combined sewer systems so there are no CSO inspections for ADEQ to conduct. Since this metric does not apply, ADEQ set both the target and the universe to zero.

For metric 4a10, ADEQ inspects its one permitted concentrated animal feeding operation (CAFO) on a five-year cycle as required. Since the facility did not require inspection in SFY17, ADEQ set its target to zero CAFO inspections.

ADEQ did not meet its targets for metrics 4a5 (number of sanitary sewer system inspections) and 4a11 (number of sludge/biosolids inspections at each major POTW).

For metric 4a5, ADEQ did not inspect any sanitary sewer systems, thus not meeting its target of 6 inspections. Meeting the target 6 inspections would have met the CMS goal of inspecting 5% of permitted POTWs with sanitary sewer systems. In SFY17, ADEQ stated they were unable to conduct the inspections because their sanitary sewer inspection program was still under development. In SFY18, ADEQ set a target of inspecting 3 sanitary sewer systems at the mid-year review. ADEQ met this target and plans to meet the full CMS goal of 6 inspections in SFY19.

For metric 4a11, ADEQ inspected one less POTW than targeted (4 instead of 5) in SFY17, but inspected one additional large land application site (5 instead of 4, plus 2 small sites), which was acceptable to EPA. ADEQ exceeded its POTW targets (5) in SFY18 by inspecting 12 POTW facilities.

ADEQ should ensure it meets its full CMS goal of 6 sanitary sewer inspection targets in SFY19 and onwards.

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**State Response:**

- In March of 2019, ADEQ trained four inspectors to conduct collection system audits and has performed three SSO inspections and three collection system audits since July 1, 2018. Based on the new created curriculum, ADEQ will continue to cross-train in SFY20 and expects to meet the commitments this fiscal year.
- ADEQ is almost complete in developing an SSO electronic reporting module for submitting and responding to SSOs. The new module will quicken the ability for reporting and allow ADEQ to react faster to assure proper clean-up has been performed and appropriate corrective actions have been made.

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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 # or%</b>
4a1 Number of pretreatment compliance inspections and audits at approved local pretreatment programs. [GOAL]	100% of AZ CMS	N/A	12	12	100%
4a2 Number of inspections at EPA or state Significant Industrial Users that are discharging to non-authorized POTWs. [GOAL]	100% of AZ CMS	N/A	0	0	N/A
4a4 Number of CSO inspections. [GOAL]	100% of AZ CMS	N/A	0	0	N/A
4a5 Number of SSO inspections. [GOAL]	100% of AZ CMS	N/A	0	6	0%
4a7 Number of Phase I and II MS4 audits or inspections. [GOAL]	100% of AZ CMS	N/A	8	8	100%
4a8 Number of industrial stormwater inspections. [GOAL]	100% of AZ CMS	N/A	61	50	122%
4a9 Number of Phase I and Phase II construction stormwater inspections. [GOAL]	100% of AZ CMS	N/A	71	37	192%
4a10 Number of comprehensive inspections of large and medium concentrated animal feeding operations (CAFOs) [GOAL]	100 % of AZ CMS	N/A	0	0	N/A
4a11 Number of sludge/biosolids inspections at each major POTW	100 % of AZ CMS	N/A	4	5	80%
5a1 Inspection coverage of NPDES majors. [GOAL]	100 % of AZ CMS	N/A	25	19	132%

5b1 Inspections coverage of NPDES non-majors with individual permits [GOAL]	100 % of AZ CMS	N/A	19	11	173%
5b2 Inspections coverage of NPDES non-majors with general permits [GOAL]	100 % of AZ CMS	N/A	2	0	2

## CWA Element 2 – Inspections

### Metric 6a: Quality of inspection reports.

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#### Finding 2-2

Area for Improvement

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#### Summary:

Thirty-nine percent of the reviewed inspection reports were found complete enough to determine compliance at the facility.

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#### Explanation:

Metric 6a assesses the quality of inspection reports to evaluate whether the inspection reports provide enough documentation to accurately determine the compliance status of inspected facilities. EPA reviewed 23 inspection reports to determine compliance with the 2017 NPDES Compliance Inspection Manual (Chapter 2G – Inspection Procedures) as described in the SRF Round 4 CWA File Review Facility Checklist and CWA Metrics Plain Language Guide. ADEQ’s 2002 NPDES Program Memorandum of Agreement with EPA states on pg 11, Paragraph V.A.2: Inspection procedures will be in accordance with EPA's NPDES Compliance Inspection Manual, 1994, or subsequent revisions, and will comply with 40 CFR Part 123.26(d). ADEQ changed its inspection report to a checklist format at some point after the Round 3 SRF.

Of the 23 reports, 9 were found complete enough to accurately determine compliance at the facility. Three were Municipal Separate Storm Sewer Systems (MS4) reports, 3 were Multi-Sector General Permit (MSGP) reports, 1 was a Construction General Permit (CGP) report, and 2 were Pretreatment Compliance Audit (PCA) reports.

Of the remaining 14 inspections reports not found to be complete enough to accurately determine compliance at the facility, 9 were Compliance Evaluation Inspections (CEIs), 1 was a Complaint, 2 were MSGPs and 2 were CGPs.

ADEQ’s inspection report is a checklist with basic ADEQ and facility contact information, a summary list of potential deficiencies if indicated, a statement that photographs are available upon request, and space for optional comments and recommendations. The inspection report does not include many of the key components of an inspection report as described in Chapter 2G

of the 2017 NPDES Compliance Inspection Manual and the EPA NPDES Inspector Wiki training for Inspection Report Writing. Typical missing elements include, but are not limited to:

- Purpose and scope of inspection (reason for the inspection such as annual targeting, sector initiative, tip/complaint, consent decree tracking, etc.)
- Facility type (major, non-major)
- Time and date of entry, exit, and weather conditions during inspection
- Names of facility representatives at intro/exit conference, and those interviewed on site
- Names of all participants on inspection team (EPA, state, local staff)
- Name of the author and program preparing the inspection report
- Date the report was issued to facility
- Maps, diagrams, sketches of facility
- Facility description
- Documentation of the areas visited at the facility, areas not examined, regulated processes examined
- Photographs time/date stamped with captions and entered in an attached photo log
- Regulatory /permit requirements involved with the observations/areas of concern
- Statement identifying revisions/amendments made to report (where applicable)
- Documentation of information exchanged during intro and exit conference
- Documentation to provide evidence at the time of inspection to support potential deficiencies, such as photographs, copies of lab reports and logbooks, statements, drawings, maps, etc.
- Reference to the above documentation when citing potential deficiencies

An inspection report that does not document key components of the inspection may not provide a basis to accurately determine compliance at the facility. Field generated inspection reports may contribute to a decrease in inspection report quality and the ability to accurately determine compliance at the facility.

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**State Response:**

- ADEQ revised the standardized inspection reports to a template format to assist inspectors in electronically field issuing the inspection report. The template includes a narrative field for inspectors to include detail for areas that are deficient.
- ADEQ will make the appropriate inspection report updates in accordance with the recommended schedule to be consistent with the 2017 EPA NPDES Compliance Inspection Manual.
- ADEQ will establish a yearly cycle for Agency-wide training for writing inspection reports.

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**Recommendation:**

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<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	ADEQ will require all inspection reports to include a narrative format that describes the inspector's observations and the key components of an inspection report as described in Chapter 2G of the 2017 NPDES Compliance Inspection Manual across all NPDES programs (CAFO, stormwater, pretreatment, etc.).
2	12/31/2019	ADEQ shall develop and submit an inspector training program to EPA for review and comment. The inspector training program shall establish training requirements for all inspectors that includes inspection preparation, site entry, evidence collection, interviews, documentation, inspection report writing, compliance determinations, the ADEQ Compliance Handbook, use of available enforcement tools, health and safety, and program-specific training for each inspection type. The inspector training program shall be consistent with procedures in EPA's 2017 NPDES Compliance Inspection Manual and EPA inspector credential training requirements.
3	6/30/2020	ADEQ shall fully implement the inspector training program to ensure all inspectors meet the training program requirements by June 30, 2020.
4	9/30/2020	EPA will evaluate ADEQ's implementation of the inspector training program.

**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>
6a Inspection reports complete and sufficient to determine compliance at the facility. [GOAL]	100%	N/A	9	23	39.1%

**CWA Element 2 – Inspections**

**Metric 6b: Timeliness of inspection reports.**

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## **Finding 2-3**

### Area for Improvement

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#### **Summary:**

Only 13 of the 23 inspection reports reviewed by EPA were dated or completed within recommended timelines for completing an inspection report.

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#### **Explanation:**

Metric 6b measures the state's timeliness in completing inspection reports against the state's inspection procedure to field-issue inspection reports, if possible. ADEQ inspectors "consult with a unit supervisor for required time-frames to generate an inspection report" if it cannot be field-issued (ADEQ Compliance Handbook (4/20/15), pg 8). The current EPA timeliness standard is 60 calendar days for on-site inspections.

Inspection reports lacking completion dates, inspection reports bearing dates beyond the recommended timeliness deadlines, and facility files that have at least one inspection entered into ICIS with no corresponding inspection report in the file were all considered as not meeting guidelines for timely completion of inspection reports.

EPA reviewed 23 inspection reports (9 CEIs, 2 PCAs, 1 Tip/Complaint, 3 MS4s, 5 MSGPs, 3 CGPs) and found 13 (56.5%) completed within timeliness guidelines which is significantly below the national goal of 100%. EPA notes that 4 of the 13 reports were completed within 2, 5, 24, and 38 calendar days. Although EPA could not determine in the files if additional time was allocated by the unit supervisor to complete these reports, EPA counted the reports as timely since the reports were completed within the EPA standard of 60 calendar days.

EPA found that 8 of the 23 inspection reports reviewed were not dated, which made it difficult to assess the timeliness of these reports. Each report stated it was emailed to the facility from the ADEQ office, but no date was provided nor did the files document additional time allocated by the unit supervisor to generate the reports. In the absence of any documentation of the report completion date, such as a cover letter transmitting a report to the discharger, EPA reviewers assumed that undated reports were not timely.

EPA found 2 dated reports that were not timely (1 CEI at 86 days and 1 MSGP at 65 days). The files did not document additional time allocated by the unit supervisor to complete the reports and both reports exceeded the EPA standard of 60 calendar days.

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#### **State Response:**

- ADEQ tracks the number of days to issue an inspection report in the State database. In SFY17 (year evaluated per this SRF) ADEQ performed 261 total inspections and the average number of days to issue the report was 8 days; SFY 18 was 10.5 days; and SFY19 was 6 days.
- ADEQ notes its timeframe for issuing inspection reports is "80% Field Issued (at the time of inspection)" or within 30 days as mandated by State law. ADEQ standard work (or

procedure) varies by permit type and facility complexity; and as such, specific timelines are maintained by each unit, and are to be included as Appendices to the Compliance and Enforcement Handbook.

- ADEQ will make the applicable updates to the inspection reports to better document the date of transmittal. ADEQ notes that the State database contains all the relevant dates, and the facility file may not contain duplications of those dates.
- ADEQ will establish a yearly cycle for Agency-wide training for writing inspection reports.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	ADEQ will update the inspection report format to include a report completion date and require inspectors to document when inspection reports are completed and transmitted to the facility. ADEQ will document that inspection reports are completed in accordance with the time frames established in its procedures.

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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>
6b Timeliness of inspection report completion [GOAL]	100%	N/A	13	23	56.5%

**CWA Element 3 – Violations**

**Metric 7e: Accuracy of compliance determinations**

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**Finding 3-1**

Area for Improvement

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**Summary:**

Forty-four percent of the inspection reports reviewed provide enough information to evaluate the accuracy of the compliance determinations.

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**Explanation:**

Metric 7e measures the percent of inspection reports reviewed that led to an accurate compliance determination. EPA reviewed 23 inspection reports and found that 10 of the reports (43.5%) led to accurate compliance determinations which is significantly below the national goal of 100%.

ADEQ does not make compliance determinations in its inspections reports or in a separate document, such as a memo to the file. Only potential deficiencies are identified in the inspection reports. In 13 instances, EPA could not determine the accuracy of the compliance determination:

- Four of the subsequent enforcement actions did not cite the inspection as the basis for the violations, but rather a follow-up desk audit instead;
- Two inspection reports identified potential deficiencies that were not noted as violations in a later enforcement action nor noted as resolved;
- In seven instances, EPA could not determine if a compliance determination was made after the site inspection.

Metrics 7j1, 7k1, and 8a3, also called review indicator metrics, are used to provide context for the overall findings from the file reviews. They are not used to develop additional findings.

Metric 7j1 measures the number of major and non-major facilities with SEVs reported in the review year. ADEQ's FY17 data indicated zero major and non-major facilities with reported SEVs in the national database system. As discussed in Finding 1-2, ADEQ does not enter SEVs into EPA's national ICIS NPDES database.

Metric 7k1 measures the major and non-major facilities in noncompliance. ADEQ's FY17 data indicated 20.3% of facilities in noncompliance, which is just above the national average of 18.6%.

Metric 8a3 measures the percentage of active major facilities in SNC and non-major facilities in Category I noncompliance during the reporting year. ADEQ's FY17 data indicated 5.4% of facilities were in noncompliance, which is below the national average of 7.5%.

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**State Response:**

- ADEQ tracks status of compliance actions in the State database.
- ADEQ will make the applicable updates to the procedures to ensure that compliance decisions are accurately documented in the facility file as well.
- ADEQ will train staff to include all compliance determinations in the paper file.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	6/30/2020	ADEQ will train all inspectors to write inspection reports that provide enough information to ascertain compliance determinations on potential violations found during inspections consistent with the EPA's 2017 NPDES Compliance Inspection Manual. This training will be a component of the inspector training program in Finding 2-2 (Quality of Inspection Reports), Recommendation #2.

**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>
7e Accuracy of compliance determinations [GOAL]	100%	N/A	10	23	43.5%
7j1 Number of major and non-major facilities with single-event violations reported in the review year.	N/A	N/A	N/A	N/A	N/A
7k1 Major and non-major facilities in noncompliance.	N/A	18.6%	71	350	20.3%
8a3 Percentage of major facilities in SNC and non-major facilities Category I noncompliance during the reporting year.	N/A	7.5%	19	350	5.4%

**CWA Element 4 – Enforcement**

**Metric 9a: Enforcement actions promoting return to compliance**

**Finding 4-1**

Area for Improvement

**Summary:**

Sixty-two percent of the reviewed enforcement actions resulted in a return to compliance. This is a recurring finding from previous reviews of Arizona's NPDES program.

## **Explanation:**

### Background Information

To give context for the subsequent findings, the below information highlights the number and type of NPDES enforcement actions taken by ADEQ during the review year and is not subject to a rating under EPA's SRF protocols.

During SFY17 (July 1, 2016 to June 30, 2017), ADEQ issued the following enforcement actions in response to NPDES violations:

- 49 Informal Actions - Notices of Opportunity to Correct (NOC) or Notices of Violation (NOV)
- 6 Compliance Orders (all Consent Orders)
- 0 Penalty Actions

ADEQ's NOC and NOV are informal administrative enforcement actions typically used by ADEQ as its initial response to a violation. NOCs and NOVs do not create independently enforceable obligations on respondents. Compliance orders are formal administrative enforcement actions that impose independently enforceable obligations on the respondent to take actions to return to compliance. In accordance with the ADEQ Compliance Handbook (4/20/15), ADEQ will attempt to negotiate an order on consent with respondents, but has authority to issue unilateral compliance orders if needed. ADEQ does not have authority to assess administrative penalties, but can take judicial actions to impose penalties and injunctive relief obligations.

The SFY17 data indicates that ADEQ relies primarily on informal enforcement actions to address NPDES violations. Findings 4-1, 4-2, and 5-1 evaluate ADEQ's use of these enforcement tools against EPA's SRF review criteria.

### Finding 4-1

Metric 9a measures the percent of enforcement responses that return or will return the source to compliance. EPA found 18 of 29 enforcement actions reviewed (62%) promote return to compliance which is significantly below the national goal of 100%. The 29 enforcement actions reviewed include 21 informal actions (NOC or NOV) and 8 compliance orders. No judicial actions were found in the files selected for review.

To evaluate the informal actions, EPA determined if the file had a record of the discharger returning to compliance in response to ADEQ's NOC or NOV. For compliance orders, EPA assumed that the action promoted a return to compliance if the enforcement action imposed enforceable injunctive relief obligations or if the file noted an actual return to compliance.

In three cases (2 NOVs at one facility and 1 CO), the facility continued with the same discharge violations after the actions were terminated. In one case, the NOC was closed before the facility returned to full compliance. In three cases, the facility could not comply with the NOV schedule.

In four cases, EPA could not determine from the documents in the file if the facility returned or will return to compliance.

The same finding for Metric 9a was identified in Rounds 1, 2, and 3 of the SRF. (Metric 9a was 81% in Round 3.) ADEQ did not adequately implement EPA's Round 3 recommendations to "commit to follow [ADEQ's] revised Compliance and Enforcement Procedures and Monitoring and Reporting procedures using a combination of formal and informal actions" and "escalate NOV's to a formal enforcement action following the timeframes outlined in [ADEQ's] revised Compliance and Enforcement Procedures."

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**State Response:**

- Returning facilities back into compliance is a core mission outcome of ADEQ. In FY19, ADEQ issued 126 CWA informal enforcement actions, which contained 426 separate compliance conditions. The average number of days to bring facilities back into compliance was 108 days. This did not meet ADEQ's goal of returning facilities back into compliance within 65 days. ADEQ continues to implement countermeasures to bring facilities back into compliance faster.
- Under the existing process, if an NOV compliance deadline is missed, ADEQ begins formal enforcement with the consent order process and continues to compliance orders and civil enforcement when appropriate.
- ADEQ will do a root cause analysis of why some enforcement actions did not result in a return to compliance.
- ADEQ is implementing a metric across the Agency that measures NOV's with missed deadlines that are not included in some type of formal enforcement.
- ADEQ is currently revising the compliance and enforcement handbook and will engage EPA about modifications.

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**Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	ADEQ will perform a root cause analysis to understand why some enforcement actions do not result in a return to compliance.
2	12/31/2019	ADEQ will revise and submit the ADEQ Compliance Handbook (4/20/15) to EPA for review and comment. The ADEQ Compliance Handbook shall be revised to include the use of appropriate enforcement tools aimed at getting facilities to return to compliance in a timely manner as outlined in EPA's Enforcement Management System (EMS), Chapter II, Attachment B - The Enforcement Response Guide (attached).
3	4/1/2020	ADEQ will implement the revised handbook.
4	6/30/2020	ADEQ will train all inspectors on the enforcement tools in the revised handbook. This training will be a component of the inspector training program in Finding 2-2 (Quality of Inspection Reports), Recommendation #2.
5	9/30/2020	EPA will evaluate ADEQ's implementation of the revised handbook.

**Relevant metrics:**

<b>Metric I D Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State %</b>
9a Percentage of enforcement responses that returned, or will return, a source in violation to compliance [GOAL]	100%	N/A	18	29	62.1%

**CWA Element 4 – Enforcement**

## **Metric 10b: Appropriate enforcement actions**

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### **Finding 4-2**

Area for Improvement

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#### **Summary:**

Enforcement actions taken at major and non-major facilities are not appropriate. This is a recurring finding from previous reviews of Arizona's NPDES program.

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#### **Explanation:**

Review Indicator metric 10a1 measures the percentage of major NPDES facilities with formal enforcement action taken in a timely manner in response to SNC violations. ADEQ's SFY17 data indicated 0% of facilities had formal enforcement action taken in a timely manner in response to SNC violations. EPA policy dictates that SNC level violations must be addressed with a formal enforcement action (administrative compliance order or judicial action) issued within 5 ½ months of the end of the quarter when the SNC level violations initially occurred.

Metric 10b measures the percentage of enforcement actions reviewed during the onsite file review that were taken in an appropriate and timely manner. Metric 10b assesses ADEQ's enforcement response to any type of violation (SNC or lower level violations) at any type of facility (major, minor or general permit discharger). EPA used the ADEQ Compliance Handbook (4/20/15) and the ADEQ Water Quality Division Enforcement Action Matrix to evaluate the appropriateness of the enforcement responses. EPA did not rely on ADEQ's informal enforcement response to major facility SNC violations because it does not comply with EPA's policy. EPA expectations for enforcement response are provided in EPA's EMS Enforcement Response Guide (attached).

For metric 10b, EPA reviewed 32 files that included documentation that one or more enforcement responses had occurred at the facility. EPA found that 17 of the 32 enforcement responses reviewed (53.1%) addressed violations in an appropriate manner which is significantly below the national goal of 100%. None of the enforcement responses were judicial actions. The files included a mix of major, non-major and general permitted facilities. EPA found 17 instances where ADEQ's enforcement response was timely and appropriate for the nature of the violation. ADEQ's timely and appropriate enforcement included 14 informal actions (NOC or NOV) and 3 compliance orders. On the other hand, EPA found 15 instances where ADEQ's enforcement response was not timely and/or appropriate for the nature of the violation. These included 1 NOV and 4 compliance orders where EPA found the action to be appropriate, but typically 3 – 6 months late. In addition, EPA found 4 instances where ADEQ either took no enforcement, 1 instance where ADEQ issued a NOC where a NOV was warranted, and 6 instances where ADEQ took an informal action where a formal action was warranted.

EPA found all ADEQ SFY17 formal enforcement actions are compliance orders negotiated on consent ("consent orders") and none include the assessment of penalties. Many of the consent orders were the result of escalated NOVs to facilities that had long histories of frequent violations of effluent limits and that did not return to compliance under one or more earlier NOVs. While the ADEQ Compliance Handbook (4/20/15) states a unilateral compliance order

will be issued if the consent order negotiation is unsuccessful or not finalized within 15 days of the initial negotiation, EPA found the 4 late compliance orders noted above were not escalated from consent orders to unilateral compliance orders in accordance with the ADEQ Compliance Handbook (4/20/15). EPA's Enforcement Response Guide, which is more stringent than ADEQ's Civil Enforcement Process outlined in Table 4 of the June 2002 AZPDES Program Description, recommends penalties as an appropriate response for frequent violations of effluent limits. In the 2002 NPDES MOA between Arizona and EPA, ADEQ agrees to employ the spirit of the EPA CWA Penalty Policy. While the ADEQ Compliance Handbook (2015) indicates ADEQ may seek penalties with a civil referral to the Arizona Attorney General's Office, EPA finds that ADEQ seldom makes the referral and is not complying with the spirit of EPA's penalty policy. By not assessing penalties when warranted, it is not issuing formal enforcement actions that address violations in an appropriate manner.

The same finding for Metric 10b was identified in Rounds 1, 2, and 3 of the SRF. (Metric 10b was 55.6% in Round 3.) ADEQ did not implement EPA's Round 3 recommendations to "commit to follow [ADEQ's] revised Compliance and Enforcement Procedures and Monitoring and Reporting procedures using a combination of formal and informal actions" and "escalate NOV's to a formal enforcement action following the timeframes outlined in [ADEQ's] revised Compliance and Enforcement Procedures." The ADEQ Compliance Handbook (4/20/15) calls for informal enforcement actions (NOC or NOV) as the initial response to most violations. For SFY17 as noted above, ADEQ issued 55 enforcement actions (49 informal and 6 formal). The 6 formal actions comprise 11% of the total enforcement actions.

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### **State Response:**

- ADEQ continues to proactively address non-compliance prior to significant non-compliance (SNC) occurrence. The national average of major facilities in SNC in 2019 is 14.75%. Arizona's percentage of major facilities in SNC in 2019 is 3.6%. This is a reduction for Arizona facilities in SNC from 6.5% in 2018 and 2017. These percentages are based on self-reporting discharge monitoring reports, not inspections, and show that Arizona's permitting, inspections, compliance, and enforcement process is effective.
- ADEQ is committed to reviewing and implementing EPA's Enforcement Management System, as it deems appropriate, during the revision of the ADEQ Compliance and Enforcement Handbook. ADEQ anticipates the revisions will be in the fall of 2019, with training on the revisions occurring spring of 2020.
- ADEQ will develop a metric with EPA (with ADEQ responsible for tracking) that will align with EPA recommendations. For example, perhaps metric 10a1 should be adopted by ADEQ as an Agency-wide metric, which will provide enhanced focus for that goal. ADEQ will consult EPA regarding this during the Compliance and Enforcement Handbook Update.

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### **Recommendation:**

<b>Rec #</b>	<b>Due Date</b>	<b>Recommendation</b>
1	12/31/2019	ADEQ will develop a metric with EPA (with ADEQ responsible for tracking) to measure the process of moving from informal to formal enforcement actions.
2	12/31/2019	ADEQ will revise and submit the ADEQ Compliance Handbook (4/20/15) to EPA for review and comment. The ADEQ Compliance Handbook shall be revised to include the use of appropriate enforcement tools aimed at getting facilities to return to compliance in a timely manner as outlined in EPA's Enforcement Management System (EMS), Chapter II, Attachment B - The Enforcement Response Guide (attached).
3	4/1/2020	ADEQ will implement the revised handbook.
4	6/30/2020	ADEQ will train all inspectors on the enforcement tools in the revised handbook. This training will be a component of the inspector training program in Finding 2-2 (Quality of Inspection Reports), Recommendation #2.
5	9/30/2020	EPA will evaluate ADEQ's implementation of the revised handbook.

**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	N/A	14.3%	0	4	0%
10b Enforcement responses reviewed that address violations in an appropriate manner [GOAL]	100%	N/A	17	32	53.1%

## CWA Element 5 – Penalties

### Metrics 11a, 12a, and 12b: Penalty calculation and collection

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#### Finding 5-1

Not Applicable

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#### Summary:

Arizona did not take any penalty actions in the review year, so we cannot document whether Arizona properly considered economic benefit and gravity in its penalty calculation and documented collection of the penalty payment.

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#### Explanation:

Metric 11a assesses the state’s method for calculating penalties and whether it properly documents the economic benefit and gravity components in its penalty calculations. Metric 12a assesses whether the state documents the rationale for changing penalty amounts when the final value is less than the initial calculated value. Metric 12b assesses whether the state documents collection of penalty payments.

EPA’s findings for metrics 11a, 12a and 12b are based on a review of ADEQ SRF frozen data in ECHO dating back to FY2014, which is the first year of data available after the FY2013 Round 3 SRF. EPA can find no record of Arizona taking any penalty actions. EPA notes ADEQ issued one penalty action each in 2007 and 2013. These actions received Meets or Exceeds ratings in the Round 2 and Round 3 SRFs, respectively. While ADEQ receives Meets or Exceeds ratings when it takes a penalty action, the fact that penalty actions are seldom taken is a recurring issue discussed in Finding 4-2 (Appropriate Enforcement Actions).

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#### State Response:

- ADEQ will train staff on how to move cases from informal to formal enforcement effectively.
  - Beginning 2017, ADEQ referred for criminal investigation and prosecution, the Hillside Mine. A judgment found defendant guilty of multiple counts of discharging violations, and the defendant was fined \$2,745,000. Maricopa, Superior Court of Arizona Case #: CCR2017-002439-001 DT.
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#### Recommendation:

Rec #	Due Date	Recommendation

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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>
11a Penalty calculations reviewed that document and include gravity and economic benefit [GOAL]	100%	N/A	N/A	N/A	N/A
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%	N/A	N/A	N/A	N/A
12b Penalties collected [GOAL]	100%	N/A	N/A	N/A	N/A

# **STATE REVIEW FRAMEWORK**

## **Arizona**

**Resource Conservation and Recovery Act  
Implementation in Federal Fiscal Year 2017**

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

**Final Report  
September 26, 2019**

# 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 is 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)**

**Clean Air Act (CAA)**

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

Review Year: FY 2017 File Review Date: 8/28/2018 AZDEQ Contact: Terry Baer EPA File Reviewers: Douglas McDaniel and John Schofield

# Executive Summary

## Introduction

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### Resource Conservation and Recovery Act (RCRA)

### 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:

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

Twenty-seven of 30 files (90%) contained data that was accurately reflected in the RCRAInfo database.

The RCRA Field Investigation Reports provide sufficient documentation to determine compliance at the facility.

AZDEQ effectively manages noncompliant facilities with appropriate enforcement responses.

### 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:

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

AZDEQ inspection coverage for Treatment, Storage and Disposal Facilities (TSDFs) meets the two-year coverage requirement. However, Large Quantity Generator (LQG) inspection 5-year coverage is below the national goal.

# Resource Conservation and Recovery Act Findings

## RCRA Element 1 - Data

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### Finding 1-1

Meets or Exceeds Expectations

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#### Summary:

Twenty-seven of 30 files (90%) contained data that was accurately reflected in the RCRAInfo database.

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#### Explanation:

Three of the 30 files reviewed were inaccurately reflected in RCRAInfo. The observed inaccuracies noted were: 1) the date of a compliance evaluation inspection (CEI) in a Field Investigation Report (FIR) was March 3, 2017. The date listed in RCRAInfo for that CEI was March 7, 2017, 2) an April 14, 2017 inspection was listed as a CEI inspection in RCRAInfo. However, the inspection was a follow-up inspection that should have been listed in RCRAInfo as a follow-up inspection (FUI), 3) for a penalty case reviewed, the initial penalty payment of \$3,000 was not entered into RCRAInfo, and 4) for the same penalty case file reviewed, the consent judgement stated that the violations had been resolved. However, RCRAInfo listed the areas of non-compliance as still in violation (i.e., violations had not been returned to compliance). These minor deviations do not constitute a deficiency. Every document that AZDEQ receives in response to an informal or formal enforcement action is listed in RCRAInfo and is accurately linked to the appropriate inspection where a violation(s) was observed. AZDEQ also accurately selects the violation(s) listed in RCRAInfo with the violations listed in inspection reports. One file reviewed contained two inspections that were performed during the review period. Each inspection related documents were reviewed as a separate file.

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#### State Response:

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#### Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Accurate entry of mandatory data [GOAL]	100%	%	27	30	90%

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## RCRA Element 2 - Inspections

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### Finding 2-1

#### Area for Improvement

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#### Summary:

AZDEQ inspection coverage for Treatment, Storage and Disposal Facilities (TSDFs) meets the two-year coverage requirement. However, Large Quantity Generator (LQG) inspection 5-year coverage is below the national goal.

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#### Explanation:

There are 8 operating TSDFs in Arizona. One TSDF is located on the Colorado River Indian Tribes Reservation, therefore AZDEQ is not responsible for inspection and permitting of this facility. AZDEQ inspected 7 of 7 TSDFs during the review period. According to 2017 RCRAInfo data, there are 431 active LQGs located in Arizona. A detailed review of Arizona LQG universe found that 108 LQGs were not LQGs inspected by AZDEQ during the 1-year and 5-year inspection cycle for the following reasons: 1) LQGs were located in Indian Country or 2) the EPA Identification Number issued to LQGs were temporary or emergency numbers. The revised LQG universe, based on this review, is 323 LQGs. For the 1-year review period, AZDEQ inspected 40 of the LQGs or 12.4% of the Arizona LQG universe. This is below the national goal of 20% and is also below the national average of 16.1%. In FY2014, AZDEQ requested that the agency be allowed to substitute two small quantity generator (SQG) inspections for one LQG inspection. EPA approved this substitution, which decreased the number of LQG inspections completed during the 5-year cycle. Since 2014, AZDEQ has not made any requests to EPA to modify the agency's LQG inspection coverage compliance monitoring strategy. For the 5-year LQG inspection coverage, the data metric of 42.7% was below the national goal of 100%. LQG inspection coverage was not an issue in previous SRF reports.

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#### State Response:

ADEQ's Response to Draft SRF  
8/12/19

EPA State Review Framework  
ADEQ's Delegated RCRA Program  
Review Conducted October 2018 Using 2017 Data

## RCRA Element 2 – Inspections

### Finding 2-1, Area for Improvement

- Summary: "... Large Quantity Generator (LQG) inspection 5-year coverage is below the national goal."
- Excerpts from report: 2017 323 LQGs, 40 inspected in 2017 (12.4%), 1-year national goal is 20%, 5-year goal is 100%, AZDEQ at 42.7%

**Federal Fiscal Year 2017 Summary (October 1, 2016 to September 30, 2017):**

A total of 70 inspections were completed in FFY 2017, 40 of which were LQG or LQG equivalents. In 2016, the unit was reorganized into a value stream. On average, the unit had only two inspectors. Each time we hired a new inspector, another inspector moved onto other opportunities.

**Federal Fiscal Year 2018 Summary (October 1, 2017 – September 30, 2018):**

A total of 66 inspections were completed in FFY 2018, **33** of which were LQG or LQG equivalents, for a total of **10.2%**. During this calendar year, the unit continued to experience extreme turnover in the hazardous waste inspector positions. For a two-month period there was only one inspector employed. Five additional inspectors were hired towards the end of FFY 2018, It was also during this time that the state reached out to EPA for support on training new inspectors to expedite inspection goals. Doug McDaniel coordinated with Terry Baer for two of his inspectors to travel to Arizona and conduct classroom training and hands on field training. Training was held in April and October of 2018.

**Federal Fiscal Year 2019 Summary (October 1, 2018 - Current) ADEQ plan:**

In December of 2018, ADEQ split the hazardous waste value stream into two units. One unit is now the Hazardous Waste Inspections & Compliance Unit (HW-ICU), and the other is the Hazardous Waste Permits & Support Unit (HW-PSU). This alignment allows each respective unit manager to focus on those unique aspects related to inspections and the technical aspects related to permits.

After close evaluation of our workforce, ADEQ determined that training of new inspectors by mentoring under experienced inspectors was no longer the most efficient path. Newer generations coming into the workforce do not historically stay in the same role for prolonged periods. These generations continue to look for advancement and challenges. To address this gap, ADEQ executed a contract with an external training vendor to develop a training program that would be effective, efficient, and educational. The vendor has developed a rigorous program that includes tabletop exercises and scenarios. The training occurred July 30<sup>th</sup> – 31<sup>st</sup>. In addition, ADEQ transferred an employee from another unit to actively mentor new inspectors in the field and help expand the goals of the new training program. This employee previously worked in the hazardous waste unit and continues to be a great asset to the unit.

**Since these new measures were implemented:**

A total of **132** inspections have been completed thus far in FFY 2019, **68** of which were LQG or LQG equivalents, for a total of **16.8%** (out of 404 in RCRAInfo) as of 7/9/2019. We are well on track to complete an additional 13 LQG or LQG equivalent inspections before September 30, 2019. The five new inspectors were in training for the first two quarters of FFY 2019. A sixth inspector was hired in January 2019. The inspectors instituted a weekly meeting to discuss upcoming inspections and set inspection targets. In addition, three inspectors were sent to McCoy's 5-Day RCRA Seminar in March 2018. ADEQ has several performance measures related to compliance including, Compliance at the Time of Inspection and Time to Return to Compliance. ADEQ reviews these metrics each month and establishes countermeasures, where needed. In order to increase performance in these areas, ADEQ has started interviewing for a new Community Outreach Coordinator position. All of these efforts have resulted in a unit focused on Inspections and Compliance functions and staff. The unit is now staffed with one

engineer for a focus on process-based inspections, four scientist inspectors, one senior inspector, one data analyst inspector, one outreach coordinator, and one enforcement officer. The table below outlines the current target goals. The team continues to ramp up those goals as the year progresses. As of July 30<sup>th</sup>, the team has conducted 22 inspections for the month of July 2019.

**Table 1.** Monthly Inspections Completed.

Month	Target	Completed
January 2019	12	16
February 2019	10	12
March 2019	10	9
April 2019	14	17
May 2019	14	14
June 2019	14	21

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**Recommendation:**

Rec #	Due Date	Recommendation
1	8/15/2019	By 8/15/2019, AZDEQ will submit an action plan for EPA approval. <b>Completed August 12, 2019 (see State Response).</b> On a quarter basis during the monthly RCRA grant calls, EPA and AZDEQ will discuss progress. After 3 consecutive quarter (April 2020) of performance that meets the LQG coverage goals, EPA will close this recommendation.

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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>
5a Two-year inspection coverage for operating TSDFs	100%	88.1%	7	7	100%
5a Two-year inspection coverage of operating TSDFs [GOAL]	100%	88.1%	7	7	100%
5b Annual inspection coverage for LQGs.	20%	16.1%	40	323	12.4%
5b Annual inspection of LQGs using BR universe [GOAL]	20%	16.1%	40	323	12.4%
5c Five-year inspection coverage of LQGs [GOAL]	%	%	138	323	42.7%

## **RCRA Element 2 - Inspections**

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### **Finding 2-2**

Meets or Exceeds Expectations

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### **Summary:**

The RCRA Field Investigation Reports provide sufficient documentation to determine compliance at the facility.

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### **Explanation:**

Each report contains facility information, inspection participants, description of facility operations, description of permitted areas (if applicable), files reviewed, observations/violations and appropriate attachments and photographs to document the observation/violation. A total of 30 inspection files were evaluated for completeness and sufficiency to determine compliance with the RCRA requirements. It was found that 100% of the inspection reports met this standard.

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### **State Response:**

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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>
6a Inspection reports complete and sufficient to determine compliance [GOAL]	100%	%	30	30	100%

## **RCRA Element 2 - Inspections**

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### **Finding 2-3**

Meets or Exceeds Expectations

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#### **Summary:**

AZDEQ issues timely inspection reports.

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#### **Explanation:**

The report template developed by AZDEQ clearly identifies the specific date(s) of an inspection. However, the date the report is issued is not clear based on the fact neither the inspector signature block nor the facility receipt signature block requires either signature to be dated. For 18 of the inspection files, the report date utilized was the final date of the inspection which corresponded with RCRAInfo data entries. For all other files, the Notice of Opportunity to Correct Deficiencies (NOC)/Notice of Violation (NOV) date was used to determine the report issuance date. In accordance with AZDEQ's Compliance Handbook dated April 20, 2015 (Compliance Handbook), AZDEQ inspectors are required to complete and issue the Field Inspection Report at the end of the inspection. Under circumstances when a violation(s) is uncertain or if the violation(s) warrants issuance of a Notice of Violation, more time is allowed to complete the inspection report and issue either a NOC for minor violations (up to 14-days) or a NOV (up to 21-days). Fourteen days was used to measure report timeliness for files which listed either no violations or a NOC was issued, and 21-days was used to measure timeliness where an NOV was issued. Based on the above parameters used to measure timeliness, AZDEQ completed 90% of their inspections within 14 or 21 days. The average time to complete a report was 12 days. Eighteen of the reports were issued on site at the completion of the inspection.

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#### **State Response:**

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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>
6b Timeliness of inspection report completion [GOAL]	100%	%	27	30	90%

### **RCRA Element 3 - Violations**

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#### **Finding 3-1**

Meets or Exceeds Expectations

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#### **Summary:**

Files reviewed included accurate compliance determinations and SNC (significant noncomplier) determinations, when applicable.

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#### **Explanation:**

AZDEQ's Field Inspection Report contains narrative and checklist sections. The report states that photographs were taken to document specific areas of non-compliance listed in the report. For inspections with minor violations, NOCs are typically issued in the field along with the report. All 30 inspection reports contained accurate violations. AZDEQ does not have a definition of significant noncomplier. Instead, AZDEQ's Compliance Handbook color codes violations: yellow violations pose the lowest environmental or human health risk, orange violations pose a moderate environmental or human health risk and red violations pose the most severe environmental or human health risk. For red violations, an NOV is issued. NOVs must be approved by the Division Director. Of the 30 files reviewed with inspection reports, only 1 file identified a violation that would be classified as a SNC (red) violation. The SNC determination was consistent with the SNC definition found in EPA's Hazardous Waste Civil Enforcement Response Policy dated December 2003 (ERP). None of the other violations observed in AZDEQ inspection and enforcement files reviewed contained violations that would have classified the facility as a SNC per the ERP.

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#### **State Response:**

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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>
7a Accurate compliance determinations [GOAL]	100%	%	30	30	100%
8a SNC identification rate.	%	1.5%	1	1	100%
8a SNC identification rate at sites with CEI and FCI	%	1.5%	1	1	100%
8b Timeliness of SNC determinations [GOAL]	100%	84.9%	1	1	100%

#### **RCRA Element 4 - Enforcement**

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##### **Finding 4-1**

Meets or Exceeds Expectations

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##### **Summary:**

AZDEQ effectively manages noncompliant facilities with appropriate enforcement responses.

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##### **Explanation:**

For inspections where minor violations are identified, AZDEQ issues a NOC at the conclusion of the inspection. The NOC includes a time period for the facility to address the identified violations. In accordance with AZDEQ's Compliance Handbook, all violations must be returned to compliance within 180-days of the first day of the inspection. Only 1 file did not show a return to compliance within the 180-day timeframe.

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##### **State Response:**

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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>
10a Timely enforcement taken to address SNC.	100%	87.7%	29	30	96.7%
10a Timely enforcement taken to address SNC [GOAL]	100%	87.7%	29	30	96.7%
10b Appropriate enforcement taken to address violations [GOAL]	100%	%	30	30	100%
9a Enforcement that returns sites to compliance [GOAL]	100%	%	30	30	100%

## **RCRA Element 5 - Penalties**

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### **Finding 5-1**

Meets or Exceeds Expectations

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#### **Summary:**

Arizona includes gravity-based, multiday and economic benefit components in their penalty calculation procedures.

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#### **Explanation:**

Due to the low number of formal enforcement actions reviewed, a complete evaluation of the AZDEQ's formal enforcement program could not be performed. Penalty related files are kept separately from the inspection and enforcement files. One formal penalty action was reviewed. The penalty calculation process includes a worksheet and justification memorandum that applied each of the penalty components to each violation listed. The file also includes documentation supporting that the penalty is being collected (i.e., copy of the check or electronic transfer report).

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#### **State Response:**

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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 Gravity and economic benefit [GOAL]	100%	%	1	1	100%
12b Penalty collection [GOAL]	100%	%	1	1	100%