

STATE REVIEW FRAMEWORK

Missouri

Clean Air Act Implementation in Federal Fiscal Year 2018

U.S. Environmental Protection Agency Region 7

**Final Report
September 15, 2020**

I. Introduction

A. Overview of the State Review Framework

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

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

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

B. The Review Process

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

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

II. Navigating the Report

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

A. Metrics

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

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

B. Performance Findings

The EPA makes findings on performance in five program areas:

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

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

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

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

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

C. Recommendations for Corrective Action

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

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

III. Review Process Information

Clean Air Act (CAA)

Key dates:

- SRF Kickoff letter mailed to MDNR: February 22, 2019
- File selection list sent to MDNR: May 20, 2019
- Data Metric Analysis sent to MDNR: May 20, 2019
- Entrance interview conducted: June 2019
- File review conducted: June 30 – July 1, 2019
- Exit interview conducted: July 1, 2019
- Draft report sent to MDNR: December 19, 2019
- Final report issued: September 15, 2020

State and EPA key contacts for review:

- Darcy Bybee, MDNR Air Pollution Control Program, Director
- Richard Swartz, MDNR Air Pollution Control Program Compliance & Enforcement Unit Chief
- Jeff Field, USEPA Region 7, Air Branch Chief (Retired July 2020)
- Lisa Hanlon, USEPA Region 7, Acting Air Branch (July 2020)
- Lisa Gotto, USEPA Region 7, Air Compliance Officer
- Joe Terriquez, USEPA Region 7, Air Compliance Officer
- Kevin Barthol, USEPA Region 7, SRF Coordinator

Executive Summary

Introduction

Clean Air Act (CAA)

Areas of Strong Performance

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

Clean Air Act (CAA)

- MDNR's review of Title V annual certifications is exemplary.
- MDNR's documentation of FCE elements in inspection reports as well as documentation to determine compliance meets expectations.

Priority Issues to Address

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)

- The review exposed inaccuracies and discrepancies in the CAA database as compared to MDNR facility files. The review also revealed missing Minimum Data Requirements (MDRs).
- Timely reporting of HPV determinations, compliance monitoring MDRs; stack test dates and results; and enforcement MDRs are all below the national goal and national averages.
- MDNR's FCE coverage of majors, mega-sites, and SM-80s is below the national goal and national averages.
- Where documentation was present to review, MDNR did not demonstrate proficiency with accurate Federally Reportable Violation (FRV) and High Priority Violation (HPV) compliance determinations.
- MDNR uses separate tracking databases to track FRV and HPV violations despite the fact that they are required elements of the national tracking system.
- MDNR has created a unique category of compliance determination.
- MDNR does not meet the objectives of the HPV policy in terms of enforcement responses, compliance schedules, timeliness, and return to compliance.

- Penalty calculation documentation did not account for economic benefit. Some files did not include documentation of penalty collection.

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1

Area for Improvement

Summary:

The review exposed inaccuracies and discrepancies in the CAA database as compared to MDNR facility files. The review also revealed missing Minimum Data Requirements (MDRs).

Explanation:

MDNR enters data directly into the EPA national enforcement data system, ICIS-Air. This data is then made publicly available through EPA's ECHO website.

Database accuracy was evaluated by comparing the MDNR compliance and enforcement files with the ECHO detailed facility reports (metric 2b). The review found 24.3% of files contained complete and accurate data. The remaining files revealed discrepancies between the ECHO database and the state files. The review also revealed missing minimum data elements. During the review, EPA found instances of the following:

- Information in ECHO, not in the file;
- Information in the file, not ECHO; and
- Information absent from file and ECHO, contained in separate discrete tracking spreadsheets.

Common file/database inconsistencies include discrepancies for dates of events such as stack tests and compliance certification submission. The files/database were also not consistent between the date the document was sent vs. received.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		9	37	24.3%

State Response: The Air Program acknowledges the importance of accuracy and minimizing discrepancies in our data. The Program had identified these issues and had implemented corrective action, but had not made retroactive changes to our files by the time EPA began its

review. We continue to review our current ICIS-Air data entry procedures and evaluate the accuracy of data entry and our filing procedures. The Program will document modifications to our procedures in revised Standard Operating Procedures (SOPs), and provide those to EPA within 60 days of completion of the SRF Final Report.

We also request that EPA provide detail on the specific files where discrepancies were noted so that we can ensure the official records are complete.

EPA RESPONSE TO STATE COMMENTS: The SRF final report and recommendations are intended to provide corrective actions to address procedural deficiencies identified in the frozen data from the subject review year. While the evaluation is data-focused, the recommendations are process focused, aimed at strengthening state procedures and protocols to ensure future adherence to national expectations of states authorized to implement the CAA program. Retroactive changes to the states files and data are not required as part of the SRF process.

EPA acknowledges MDNR's review of current ICIS-AIR data entry protocols and evaluation of the accuracy of data entry and filing procedures. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation.

No changes have been made in the final report in response to this comment.

Recommendation:

Rec #	Due Date	Recommendation
1	03/01/2021	<p>EPA recommends MDNR evaluate current data entry procedures with the goal of significantly improving accuracy in recording MDRs. EPA recommends MDNR:</p> <ul style="list-style-type: none"> • Implement the use of a data entry form, which may be provided electronically to data entry staff upon completion of reportable activities. • Provide Region 7 with a draft document (in the form of a Standard Operating Procedure (SOP)), outlining the specific process improvements designed to address the issues associated with accurate data entry, for EPA review within 60 days of completion of the SRF Final Report. • EPA will use the data frozen during the regular Annual Data Metric Analysis (ADMA) process to assess progress on this recommendation. <p>This recommendation will be deemed completed upon:</p> <ol style="list-style-type: none"> 1. Implementation of a data entry form and EPA approved SOP; and 2. Achievement of 85% or greater accuracy in metric 2b. EPA will randomly pull five facilities in the MDNR FY20 frozen data set in order to review progress of complete and accurate reporting of MDRs. If the FY20 data pull does not achieve this accuracy level, EPA will review data from subsequent years until the threshold is met.

CAA Element 1 - Data

Finding 1-2

Area for Improvement

Summary:

Timely reporting of HPV determinations, compliance monitoring MDRs; stack test dates and results; and enforcement MDRs are all below the national goal and national averages.

Explanation:

The SRF preliminary data metric analysis revealed MDNR's timely reporting of HPV determinations (metric 3a2) cannot be evaluated for the 2018 review period due to the lack of HPV facilities for the subject review period. EPA addresses such anomalous cases by reviewing HPVs from previous reporting periods (i.e., EPA reviewed MDNR HPVs from fiscal years 2016 and 2017 to account for this metric). This review is meaningful in a qualitative sense; however, it is

not included as a quantitative metric herein because EPA cannot calculate percentages to be compared nationally (i.e., percentage achievements calculated over the two-year time period cannot be meaningfully compared to percentage achievements for the 2018 review period). In short, EPA cannot comment on the timeliness of something that did not happen the review period.

The SRF review revealed a widespread issue with timeliness in reporting relevant enforcement actions and milestones. In terms of the timeliness of reporting compliance monitoring MDRs (metric 3b1), the analysis of this data metric shows MDNR's achievement of this metric (45.2%) is well below the national average (85.2%). The timely reporting stack test dates and results (14.9%) is likewise below the national average (65.1%). With respect to metric 3b3, at 0%, MDNR has failed to meet this metric across the board.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
3a2 Timely reporting of HPV determinations [GOAL]	100%	44.9%	0	0	0
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	85.2%	220	487	45.2%
3b2 Timely reporting of stack test dates and results [GOAL]	100%	65.1%	51	343	14.9%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	71.8%	0	3	0%

State Response: We acknowledge that adequate and timely reporting of our work is an essential function. We have begun immediate corrective actions to ensure that previous data is uploaded to ICIS-Air and future reporting is complete and timely. Specifically:

1. Our procedures now require that staff provide data to the ICIS-Air data steward in a timely fashion, a minimum of twice per month.
2. It is now policy that the data steward and supervisory staff review and compare our records to the Enforcement and Compliance History Online (ECHO) database on a monthly basis, and coordinate with EPA staff to verify that the data uploaded to ICIS-Air is accurate and complete.
3. Staff are all trained in the HPV and FRV policies.

While EPA has acknowledged improvements in the Program's FFY2019 data, we continue to review our current procedures, train staff, and evaluate our coordination and communication practices to ensure relevant data is timely provided to our staff members that are responsible for

ICIS-Air data entry. We are also evaluating current workloads and considering a realignment of duties to ensure data entry is prioritized.

We will document modifications to our procedures and include them in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

EPA RESPONSE TO STATE COMMENTS: Noted. These efforts (proposed and implemented) will be assessed and reviewed following issuance of the final report, which will include recommendations for corrective actions to address the findings.

No changes have been made in the final report in response to this comment.

Recommendation:

Rec #	Due Date	Recommendation
1	03/01/2021	<p>EPA recommends MDNR evaluate current data entry procedures with the goal of significantly improving timeliness in recording MDRs. To achieve this goal, EPA recommends MDNR:</p> <ul style="list-style-type: none">• Implement data entry review and tracking procedures specific to the relevant metrics (3a1, 3b1, 3b2, 3b3).• Review the recently revised HPV policy to ensure familiarity with the 2015 policy revisions.• Provide Region 7 with a draft of the process improvement (in the form of an SOP) for review within 60 days of completion of the SRF Final Report that addresses the timeliness for reporting of HPV determinations; compliance MDRs; stack test dates and results; and enforcement MDRs.• EPA will use the data frozen during the regular ADMA process to assess progress on this recommendation. <p>This recommendation will be deemed completed upon:</p> <ol style="list-style-type: none">1. Implementation of an EPA approved SOP; and achievement of 85% or greater in metrics 3a1, 3b1, 3b2, and 3b3. EPA will review MDNR FY20 frozen data in order to determine progress in timely entry of MDRs. If the FY20 data does not meet this threshold, EPA will review subsequent years data until met.

CAA Element 2 - Inspections

Finding 2-1

Area for Improvement

Summary:

MDNR's FCE coverage of majors, mega-sites, and SM-80s is below the national goal and national averages.

Explanation:

EPA notes MDNR's FCE coverage of majors, mega-sites, and SM-80s has decreased since the last review and is below the national goal and national averages.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
5a FCE coverage: majors and mega-sites [GOAL]	100%	88.1%	147	186	79%
5b FCE coverage: SM-80s [GOAL]	100%	93.7%	89	117	76.1%

State Response: Air Program staff reviewed internal databases and compared it to information located in the ECHO database for FFY2018. We found a number of discrepancies specific to major sources, mega-sites, and SM-80s listed within the databases that had gone out of business, or were otherwise not part of this source category. In addition, we found discrepancies with the number of inspections conducted in this source category. As a result of this review and the discrepancies we identified, the Air Program believes this finding is a data integrity issue.

The Air Program respectfully requests that EPA staff re-run the data for the FFY2018 period to verify corrections to the number of active facilities in this class and corrections to the number of facilities inspected in this class. We believe updates to the database will show a marked improvement in this metric. Furthermore, if the data reveals that this issue has been resolved by our agency without additional oversight, we request that EPA consider reclassifying this issue as an "area for attention."

Importantly, the Air Program has initiated steps to ensure data in ECHO and ICIS-Air is accurately represented going forward. In March 2020, Program staff compared FFY2019 and later data regarding these classes of facilities to data in the ECHO database and made necessary updates. Air Program staff will discuss this area as necessary during coordination calls with EPA Region 7 staff and we will document modifications to our procedures and include these modifications in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

The Air Program is also working with EPA Region 7 staff to identify tools the Department's regional office staff can utilize for inspection planning purposes - specifically information relating to the date of last inspection for this class of facilities in the ECHO database. We will develop SOPs specific to inspection planning to include utilization of the tools and data available in ECHO. Due to the time it may take to work with Region 7 staff to identify the specific tools, coordinate the use of these tools with our five regional offices, and to draft SOPs for our five regional offices, the Air Program requests a deadline to submit these specific SOPs to EPA within 120 days of completion of the SRF Final Report.

EPA RESPONSE TO STATE COMMENTS: We appreciate MDNR's considerable efforts to conduct a root cause analysis of the FCE coverage issue in response to this finding in the draft report.

Prior to the formal SRF in July 2019, MDNR had several opportunities to review and correct the 2018 data, including during the data verification period preceding the data freeze, as well as the time period following transmittal of the file selection list. EPA does not re-run data metric analyses post-file review. It is outside the framework protocol to re-review data that has been cleaned up following the authorized review. We will evaluate process improvements made as a result of the SRF analysis in the data in subsequent years to measure progress, per the recommendations in the final report. EPA does not measure or record improvements made during the SRF process to past frozen data, nor amend program findings for data clean-up performed following the file review.

No changes have been made in the final report in response to this comment.

Importantly, the Air Program has initiated steps to ensure data in ECHO and ICIS-Air is accurately represented going forward. In March 2020, Program staff compared FFY2019 and later data regarding these classes of facilities to data in the ECHO database and made necessary updates. Air Program staff will discuss this area as necessary during coordination calls with EPA Region 7 staff and we will document modifications to our procedures and include these modifications in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

EPA acknowledges MDNR's initial steps to ensure data entry procedures for data in ECHO and ICIS-AIR provide for accurate public-facing data in the future. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the SOPs and progress MDNR has made following transmittal of the final report.

No changes have been made in the final report in response to this comment.

The Air Program is also working with EPA Region 7 staff to identify tools the Department's regional office staff can utilize for inspection planning purposes - specifically information relating to the date of last inspection for this class of facilities in the ECHO database. We will develop SOPs specific to inspection planning to include utilization of the tools and data available in ECHO. Due to the time it may take to work with Region 7 staff to identify the

specific tools, coordinate the use of these tools with our five regional offices, and to draft SOPs for our five regional offices, the Air Program requests a deadline to submit these specific SOPs to EPA within 120 days of completion of the SRF Final Report.

MDNR's request to extend the deadline to submit the above referenced SOPs is reasonable. The report has been amended to accommodate the requested timeline.

Recommendation:

Rec #	Due Date	Recommendation
1	03/01/2021	<p>EPA recommends MDNR evaluate the current EPA CMS policy with the goal of improving FCE coverage. To achieve this goal, EPA recommends MDNR:</p> <ul style="list-style-type: none">• Develop a written plan in the form of an SOP to address FCE coverage in the state for EPA review within 120 days of completion of the SRF Final Report.• Leverage our partnership through direct communication during EPA/MDNR monthly calls as well as during the CMS Plan planning process to address the FCE (majors, mega-sites, and SM-80s) coverage deficit.• EPA will use the data frozen during the regular ADMA process to assess progress on this recommendation. <p>This recommendation will be deemed completed upon:</p> <ol style="list-style-type: none">1. Implementation of an EPA approved SOP; and2. Achievement of 85% or greater in metrics 5a and 5b. EPA will review MDNR FY20 frozen data in order to review progress of FCE coverage (majors, mega-sites, and SM-80s). If the FY20 data pull does not achieve this threshold, EPA will review data from subsequent years until the threshold is met.

CAA Element 2 - Inspections

Finding 2-2

Meets or Exceeds Expectations

Summary:

MDNR's review of Title V annual certifications is exemplary.

Explanation:

MDNR's review of Title V annual certifications is exemplary, at 94.9%, the state is well above the national average and close to the national goal.

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%	82.5%	240	253	94.9%

State Response: The Air Program appreciates EPA's acknowledgement of our success under this element.

EPA RESPONSE TO STATE COMMENTS: No changes have been made in the final report in response to this comment.

CAA Element 2 - Inspections

Finding 2-3

Meets or Exceeds Expectations

Summary:

MDNR's documentation of FCE elements in inspection reports as well as documentation to determine compliance meets expectations.

Explanation:

In Missouri's inspection report documentation of FCE elements, compliance issues are generally described succinctly in the narrative portion. The reports are clear about the steps necessary for a facilities' return to compliance. MDNR's review of Compliance Monitoring Reports and files that provide sufficient documentation to determine compliance meets expectations. EPA did find that the reports were variable in quality among the district offices. The highest quality reports contain strong, detailed narratives to connect the data and provide transparency to the regulated community and public. Some are simple box checks, which proves difficult to evaluate completeness and accuracy.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
6a Documentation of FCE elements [GOAL]	100%		23	26	88.5%
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%

State Response: The Air Program appreciates EPA’s acknowledgement of our success under this element.

EPA RESPONSE TO STATE COMMENTS: No changes have been made in the final report in response to this comment.

CAA Element 3 - Violations

Finding 3-1

Area for Improvement

Summary:

Where documentation was present to review, MDNR did not demonstrate proficiency with accurate Federally Reportable Violation (FRV) and High Priority Violation (HPV) compliance determinations.

MDNR uses separate tracking databases to track these violations despite the fact that they are required elements of the national tracking system.

MDNR has created a unique category of compliance determination.

Explanation:

MDNR’s FRV and HPV discovery rate (Metrics 7a1 and 8a) in FY18 was zero, and therefore below national averages. Because no HPVs were identified, EPA cannot evaluate the timeliness of HPV determinations for the review period (Metric 13).

Accuracy of compliance determinations (37.8%), and accuracy of HPV determinations (71.4%) are below national averages. In several cases, the documentation to evaluate the accuracy of compliance determinations was absent from the state files. In files where documentation was present, MDNR frequently made inaccurate FRV and HPV compliance determinations (i.e., MDNR compliance determinations were not consistent with national FRV and HPV policy, facilities with violations that are normally classified as FRV and HPV were not classified as such).

For facilities where file documentation demonstrates FRV and HPV violations were discovered and not classified appropriately, MDNR tracked these violations on a separate internal spreadsheet; these data were not entered and tracked in national databases.

MDNR has created a unique category of compliance determination. Numerous facility files contained compliance determination letters notifying facilities of findings outside national compliance categories. For facilities with violations requiring formal and informal enforcement actions, in lieu of Letters of Warning and Notices of Violation, MDNR routinely notified non-compliant facilities with a letter of “Unsatisfactory Findings.” These letters did not contain follow-up actions to correct deficiencies; nor was a facility response requested. There is no national database category to tabulate and track these “Unsatisfactory Findings” citations. Such findings and letters are not nationally consistent and circumvent the public awareness of CAA violators in their communities. This protocol does not provide for a formal return to compliance.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
13 Timeliness of HPV Identification [GOAL]	100%	89.5%	0	0	0
7a Accurate compliance determinations [GOAL]	100%		14	37	37.8%
7a1 FRV ‘discovery rate’ based on inspections at active CMS sources		7.8%	0	505	0%
8a HPV discovery rate at majors		2.5%	0	267	0%
8c Accuracy of HPV determinations [GOAL]	100%		15	21	71.4%

State Response: First, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations during the time period evaluated. In support, we are attaching reports to illustrate the successful efforts by the Air Program to address FRVs through compliance assistance and through referrals and orders during FFY17 and FFY18.

The Air Program nevertheless acknowledges the importance of appropriately classifying violations as FRV and/or HPV, and we have begun immediate corrective actions to ensure the appropriate classification of all violations. Specifically:

1. Our procedures now require that staff identify compliance issues as FRVs and HPVs, if the issues fall into these categories of violation, in inspection reports and correspondence sent to facilities to ensure proper documentation of the violations.
2. Supervisors and managers must review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.
3. Staff are trained regarding proper compliance evaluation determinations.
4. Staff are trained in the HPV and FRV policies, including the requirement to notify facilities of HPVs within 45 days of discovery.

The Air Program conducted individual training on FRV and HPV policies with all relevant staff members. In addition, the Program is developing training materials to present to all compliance and enforcement staff, including regional office inspectors, during a scheduled training event this coming June.

EPA further expressed concern about the Air Program's use of separate databases to track violations. The databases that the Air Program use are important communication tools between the Air Program, the Department's Regional Offices, and other programs within the Division of Environmental Quality. They allow program and regional staff to view compliance and enforcement data across the programs and across the state. In addition, the Air Program uses these internal databases to generate reports regarding inspection and enforcement activities to share with the public, stakeholders, and the Missouri Air Conservation Commission. EPA's ECHO and ICIS-Air databases do not have the tools we need to fulfill these functions and are not broadly available to Department staff. While having duplicate databases may be seen as inefficient, the important outcome here is that the correct information is entered into EPA's national tracking system. We are committed to ensuring that all relevant information is properly submitted by the Air Program.

Finally, EPA noted that the Department is using a unique category of compliance in the Air Program. While we understand EPA's concern with national consistency, the Department believes that the use of "unsatisfactory finding" letters is consistent with EPA's September 2014 memorandum regarding *Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources*. In that memorandum, EPA details that formal notice of a FRV or potential FRV to a source may be provided in a variety of ways:

For example, such formal notice **may** be a Notice of Violation (NOV), Notice to Correct (NTC), Notice of Opportunity to Correct (NOC), Notice to Comply (NTC), or Notice of Noncompliance (NON). **Regardless of the name of the formal notice of violation**, if the purpose of the formal notice is to notify a source of an FRV, it is to be reported to ICIS-Air. (Emphasis added).

As the attached policy excerpt shows, the use of an "unsatisfactory finding" letter is to formally notify a source of a compliance issue and the requirement to take necessary action to resolve the compliance issue. Therefore, we believe that issuing a notice of "unsatisfactory finding" and reporting these letters to ICIS-Air achieves the desired outcome of formally notifying a source of a FRV or potential FRV.

EPA RESPONSE TO STATE COMMENTS: The submitted MDNR internal reports are outside the scope of the SRF Round 4 review. These reports do not provide additional relevant evidence for EPA to evaluate MDNR's accuracy of compliance determinations in the CAA program.

The Round 4 SRF evaluation studied 35 facilities that were selected as a representative sample of all aspects of MDNR's CAA compliance and enforcement work for the 2018 fiscal year. In reviewing the supplemental information provided, it appears MDNR has provided a list of finalized agreements with seventeen facilities in various program areas outside of the CAA SRF review areas; programs such as asbestos, which are beyond the scope of this CAA SRF review. For the single applicable facility (Northstar Battery) that could potentially be subject to this review, a) this facility was not among the predetermined SRF facility set; and b) there is no material to give context to the basis and nature of the agreement executed in 2018 to inform an evaluation, including information on the particular violation(s), timelines, procedures, reporting, public access to data, penalties (if any), and resolution. EPA therefore cannot use the supplemental information to inform the final report.

No changes have been made in the final report in response to this comment.

The Air Program nevertheless acknowledges the importance of appropriately classifying violations as FRV and/or HPV, and we have begun immediate corrective actions to ensure the appropriate classification of all violations. Specifically:

- 1. Our procedures now require that staff identify compliance issues as FRVs and HPVs, if the issues fall into these categories of violation, in inspection reports and correspondence sent to facilities to ensure proper documentation of the violations.*
- 2. Supervisors and managers must review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.*
- 3. Staff are trained regarding proper compliance evaluation determinations.*
- 4. Staff are trained in the HPV and FRV policies, including the requirement to notify facilities of HPVs within 45 days of discovery.*

The Air Program conducted individual training on FRV and HPV policies with all relevant staff members. In addition, the Program is developing training materials to present to all compliance and enforcement staff, including regional office inspectors, during a scheduled training event this coming June.

Noted. EPA acknowledges MDNR's above listed steps to ensure the appropriate classification of all CAA violations. These activities are aligned with the spirit of the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

No changes to the report have been made in response to the information provided.

EPA further expressed concern about the Air Program's use of separate databases to track violations. The databases that the Air Program use are important communication tools between the Air Program, the Department's Regional Offices, and other programs within the Division of Environmental Quality. They allow program and regional staff to view compliance and enforcement data across the programs and across the state. In addition, the Air Program uses these internal databases to generate reports regarding inspection and enforcement activities to share with the public, stakeholders, and the Missouri Air Conservation Commission. EPA's ECHO and ICIS-Air databases do not have the tools we need to fulfill these functions and are not broadly available to Department staff. While having duplicate databases may be seen as inefficient, the important outcome here is that the correct information is entered into EPA's national tracking system. We are committed to ensuring that all relevant information is properly submitted by the Air Program.

Complete and accurate data are vital to our understanding of current air quality conditions in our states, and critical to our effective planning for the future. In an era of access constraints and dwindling resources, data that give an accurate picture of the conditions in our states are crucial in shaping our work, present and future.

EPA does not prevent the use of multiple internal databases to track and present CAA compliance and enforcement information. Through discussions with technical staff and review of the internal and external databases, EPA concluded that data inaccuracies and discrepancy issues identified in the national public facing database, in part, likely stem from the duplication of effort inherent in dual tracking systems.

A key program expectation is that of ensuring the public facing data is accurate and complete. As articulated in EPA's September 2014 Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources (FRV guidance), a fundamental principle of effective compliance monitoring programs is having a complete and accurate inventory of sources with timely information on potential compliance problems. Reporting violations of the CAA in a national data system is critical at the federal, state, and local levels; and vital to the communities we serve. While our ultimate purview is the national database, EPA views the existence of multiple internal state databases as a potential roadblock to accurate reporting to our public facing systems.

Finally, EPA noted that the Department is using a unique category of compliance in the Air Program. While we understand EPA's concern with national consistency, the Department believes that the use of "unsatisfactory finding" letters is consistent with EPA's September 2014 memorandum regarding Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources. In that memorandum, EPA details that formal notice of a FRV or potential FRV to a source may be provided in a variety of ways:

*For example, such formal notice **may** be a Notice of Violation (NOV), Notice to Correct (NTC), Notice of Opportunity to Correct (NOC), Notice to Comply (NTC), or Notice of Noncompliance*

(NON). Regardless of the name of the formal notice of violation, if the purpose of the formal notice is to notify a source of an FRV, it is to be reported to ICIS-Air. (Emphasis added). As the attached policy excerpt shows, the use of an “unsatisfactory finding” letter is to formally notify a source of a compliance issue and the requirement to take necessary action to resolve the compliance issue. Therefore, we believe that issuing a notice of “unsatisfactory finding” and reporting these letters to ICIS-Air achieves the desired outcome of formally notifying a source of a FRV or potential FRV.

The SRF review comparing the national database with the state files during the SRF review demonstrated the state is not following the national guidance and expected procedures for elements of compliance determinations. EPA reiterates the draft report in stating here that the state’s facility files demonstrate MDNR processes for evaluating violations, reporting violations, tracking violations, and ensuring return to compliance fall outside national expectations, guidance and practices.

Regarding the issue of the unique category of violation created by MDNR (i.e., **Unsatisfactory Findings – No Response Required** letters), the state has misinterpreted the FRV guidance, which does not allow for the creation of a unique category of compliance determination. There is no flexibility in the guidance to create a unique type of enforcement category for violations that require facility responses, federal reporting and tracking. No flexibility exists in the national program to take an alternate path with violations in terms of follow-up and return to compliance. It is not the title of the notice at issue, it is the content of the notice and absence of a required facility response that deviates from the national expectations. It is not the name of the notice that is in question, it is the use of a unique type of notice that is not recorded and tracked in the national data base for public awareness that is at issue. The unique notices fail to meet national expectations in the following areas: violation reporting, tracking, and return to compliance; as outlined in the FRV guidance.

As discussed in greater detail below, MDNR’s FRV and HPV discovery rate data in the national data system (Metrics 7a1 and 8a) in FFY18 was zero; no Federally Reportable or High Priority violators were identified to the public in data reports to communities in Missouri. The SRF review of a representative set of files reveal that there were facilities that violated the CAA (per HPV and FRV guidances) in FFY18, violations which require federal reporting, responses, tracking and return to compliance.

The lack of public notice and access to a broader range of information on the violations and air pollution that affect communities is a key issue. The program staff skill in identifying and correcting violation cannot be evaluated when the process and data availability deviate from national expectations. The need and emphasis on this reporting in the national system is emphasized in the national FRV guidance as follows, “Reporting of violations of the CAA in the national air compliance and enforcement data system, ICIS-Air (successor to AFS), is critical for national program management and oversight as well as for transparency and public access purposes.”

EPA issued the September 2014 FRV guidance because routine State Review Framework (SRF) evaluations confirmed inconsistent and under-reporting of violations by states. The final SRF

report includes the statement that, for facilities where file documentation demonstrates FRV and HPV violations were discovered and not classified appropriately, MDNR tracked these violations on a separate internal spreadsheet; these data were not entered and tracked in national databases.

As a means of addressing these findings, EPA has added the following amended recommendations in the final SRF report, aimed at strengthening our communication on these issues along with MDNR's program success in this area:

- EPA will provide training on FRV and HPV policies.
- EPA and MDNR will review and discuss all MO CAA violations, FRV and HPV actions on a bi-weekly frequency during state and federal compliance/enforcement calls.
- EPA and MDNR will implement a shared facility *Compliance Determination OneDrive* (or similar electronic sharing mechanism) hub to facilitate transparent shared documentation of all enforcement determinations in the state, as compared to the national policies, for each facility inspected.
 - EPA will provide a fillable form (i.e., *Compliance Determination Form*) for MDNR to document compliance/enforcement decisions for the purpose of streamlining and communicating compliance determinations.
 - *Compliance Determination Forms* will require report out of the following:
 - Violations found in each inspection, with an emphasis on FRV/HPV criteria;
 - A comparison of each violation with a comprehensive list of all potential FRV and HPV violations;
 - Documentation of required follow-up corrective actions, including timeline to completion.
 - All facility *Compliance Determination Documents* will be discussed on bi-weekly calls.
 - Data pulls from the national database will be discussed on monthly calls.

Following one year of implementing the training, Compliance Determination Forms, and joint enforcement calls, EPA will conduct a partial, focused SRF to evaluate progress on metrics 7, 8 and 13.

Recommendation:

Rec #	Due Date	Recommendation
1	03/01/2021	<p>EPA Recommends:</p> <ul style="list-style-type: none"> • MDNR discontinue the use of nationally inconsistent “Unsatisfactory Findings” compliance determinations and letters. • As a means to address accuracy and national consistency in compliance determinations, EPA will provide training on FRV and HPV policies. • EPA and MDNR will review and discuss all MO CAA violations, FRV and HPV actions on a bi-weekly frequency during state and federal compliance/enforcement calls. • EPA and MDNR will implement a shared facility <i>Compliance Determination OneDrive</i> (or similar electronic sharing mechanism) hub to facilitate transparent shared documentation of all enforcement determinations in the state, as compared to the national policies, for each facility inspected. <ul style="list-style-type: none"> ○ EPA will provide a fillable form (i.e., <i>Compliance Determination Form</i>) for MDNR to document compliance/enforcement decisions for the purpose of streamlining and communicating compliance determinations. ○ <i>Compliance Determination Forms</i> will require report out of the following: <ul style="list-style-type: none"> ▪ Violations found in each inspection, with an emphasis on FRV/HPV criteria; ▪ A comparison of each violation with a comprehensive list of all potential FRV and HPV violations; ▪ Documentation of required follow-up corrective actions, including timeline to completion. ○ All facility <i>Compliance Determination Documents</i> will be discussed on bi-weekly calls. ○ Data pulls from the national database will be discussed on monthly calls. <p>Following one year of implementing the training, Compliance Determination Forms, and joint enforcement calls, EPA will conduct a partial, focused SRF to evaluate progress on metrics 7, 8 and 13.</p> <p>This recommendation will be deemed completed upon:</p> <ol style="list-style-type: none"> 1. Implementation of EPA/MDNR bi-weekly conference calls; <p>and</p>

		<p>2. EPA will randomly pull a selection of facilities from the FY20 frozen data set for review. If the sampling indicates that accuracy of compliance determinations and HPV determinations have sufficiently improved (85% or greater) and FRV and HPV data entry are accurate in the national system, EPA will close this recommendation. If the FY20 data pull does not achieve this accuracy level, EPA will review data from subsequent years until the threshold is met.</p>
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CAA Element 4 - Enforcement

Finding 4-1

Area for Improvement

Summary:

MDNR does not meet the objectives of the HPV policy in terms of enforcement responses, compliance schedules, timeliness, and return to compliance.

Explanation:

With respect to the state's formal enforcement responses (Metric 9a), MDNRs achievement is 58.3%.

Regarding the state's performance addressing and/or removing HPVs consistent with the HPV policy (Metric 10a), EPA finds through file review and discussions with management and staff, the state does not apply the policy as written.

Regarding metrics 10b and 14, (i.e., case development and resolution timeline in place when required that contains required policy elements), the absence of HPV facilities discovered by MDNR during the 2018 review period was addressed by widening the lens of review of the state program in this area to multiple previous years. This action was taken in order to evaluate the state program's progress in these metrics since the Round 3 report findings were issued. As a means to measure the state's performance and success in these areas, Region 7 recognizes that an average quantitative metric over several years of the state's performance in these areas may be applied to the years outside the review period as a means of reaching broad overarching conclusions for strengthening performance in this area.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State %
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		1	8	12.5%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		1	4	25%
14 HPV case development and resolution timeline in place when required that contains required policy elements [GOAL]	100%		0	3	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%		7	12	58.3%

State Response: Without knowing in which files EPA found deficiencies, it is impossible for the state to respond specifically as to the accuracy of this finding. There may be cases in which the violation was resolved through a non-formal process that did not require case development or a resolution timeline. In other cases, those mechanisms may have been developed but, consistent with past practice, were not documented in the paper file. In order to provide a thorough response, it is necessary to know which files EPA reviewed.

Further, the report notes with regard to metrics 10B and 14 that “the low sample population size of HPV facilities reviewed from multiple previous years does not offer a reliable picture of the state’s performance and success.” The report also notes that “the relatively small sample size diminishes the confidence in these results.” Given these limitations, the Department requests that EPA withdraw these findings from the final report or provide a determination of “Inconclusive,” rather than have the record reflect a performance result that is not well-documented.

The Department also requests that the sample size used for metrics 10b and 9a be re-considered in the same light.

The Department nevertheless recognizes the importance of addressing and/or removing HPVs, consistent with EPA’s HPV policy, and ensuring that these efforts are documented. We have begun immediate corrective actions. Specifically:

1. Procedures now require staff to develop a resolution time frame for cases that may take more than 180 days to resolve, and share that with the Compliance and Enforcement Section Chief.
2. Procedures now require the Compliance and Enforcement Section Chief share a resolution time frame with appropriate EPA staff for any cases that may take more than 180 days to resolve.
3. Procedures now require HPVs to be addressed or removed consistent with the HPV policy.
4. Staff are trained regarding formal enforcement responses that include required corrective actions that will return the facility to compliance in a specified time frame.
5. Staff are trained regarding timely HPV case development and resolution.
6. Procedures now require staff to identify compliance issues noted in inspection reports and correspondence to facilities as FRVs and HPVs, if the issues fall into these categories of violation, to ensure proper documentation of the issues.
7. Procedures now require supervisors and managers to review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.
8. The Air Program is developing training material to present to Compliance and Enforcement staff, including regional office inspectors, during a scheduled training event in June 2020.

Again, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations, regardless of FRV or HPV status, during the time period evaluated. The four attached reports illustrate the successful efforts by the Department during FFY2017 and FFY2018 to address FRVs through compliance assistance and through referrals and orders. The Air Program will document updated processes regarding this issue and include them in SOPs, which we will provide to EPA Region 7 within 60 days of completion of the SRF Final Report. The submittal will also contain a detailed description of the tracking system we use for HPV enforcement cases. Air Program staff will discuss the progress of HPV enforcement cases, including any foreseeable delays in case development and resolution of cases, during coordination calls with EPA Region 7 staff.

EPA RESPONSE TO STATE COMMENTS: EPA transmitted the facility file selection list for review on May 20, 2019. Additionally, EPA forwarded the file selection list prior to the entrance interview in June of 2019. Considerable time, effort, and discussions among EPA and MDNR staff were devoted to selecting the facility files.

There may be cases in which the violation was resolved through a non-formal process that did not require case development or a resolution timeline.

The method of addressing an HPV or FRV violations through a “non-formal process” is antithetical to the required formal procedures for addressing these high priority or federally reportable violations. Non-formal processes are outside national guidance, expectations and acceptable practices for states authorized to address and correct stationary source CAA program violations. The HPV classification is, by definition, a formal process, requiring formal case

development, as well as resolution in a timely manner. To resolve HPVs in an informal manner, without documentation, reporting and tracking of the resolution, is a deviation from national program requirements.

In other cases, those mechanisms may have been developed but, consistent with past practice, were not documented in the paper file. In order to provide a thorough response, it is necessary to know which files EPA reviewed.

A key overarching finding for the round 4 SRF review is past practices of not documenting violations, timelines and resolutions in the paper files does not serve to inform EPA and the public of any actions the state has taken in implementing and enforcing the CAA program.

Further, the report notes with regard to metrics 10B and 14 that “the low sample population size of HPV facilities reviewed from multiple previous years does not offer a reliable picture of the state’s performance and success.” The report also notes that “the relatively small sample size diminishes the confidence in these results.” Given these limitations, the Department requests that EPA withdraw these findings from the final report or provide a determination of “Inconclusive,” rather than have the record reflect a performance result that is not well-documented. The Department also requests that the sample size used for metrics 10b and 9a be re-considered in the same light.

As was discussed with MDNR staff prior to the file review, the sample population size for the review period is problematic for a number of reasons. The state Data Metric Analysis performed on the 2018 frozen data prior to the formal SRF file review (transmitted to MDNR via email on May 20, 2019) recorded MDNR’s FRV and HPV discovery rates are 0% and 0%, well below the national averages of 7.8% and 2.5%, respectively. In order to review the aspects of HPV case timeliness, development, and resolution captured by SRF metrics 9a, 10a, 10b, and 14, the SRF process provides for an extended review period to previous years in order to identify facilities and gain a broader understanding of program performance in these metrics for the time period since the Round 3 review of the data. When HPVs are not reported, EPA looks to previous years to provide recommendations for strengthening MDNRs discovery, timeliness and corrective actions for HPV and FRVs.

EPA notes the absence of HPVs and FRVs for the 2018 review period can likely be attributed to one of two factors, a) data and reporting problems; or b) the potential (as discussed above) for inaccurate compliance determinations. Our review of the files did conclude that there are high priority violators in the state, as defined in the HPV policy; and the state is not categorizing and following up on HPVs per national expectations.

EPA is confident in the essence of the conclusions drawn from the data reviewed; however to clarify the findings, the report has been amended as follows, “... the absence of HPV facilities discovered by MDNR during the 2018 review period was addressed by widening the lens of review of the state program in this area low sample population size of HPV facilities reviewed from to multiple previous years. This action was taken in order to evaluate the state program’s progress in these metrics since the Round 3 report findings were issued, as a means to measure do not offer a reliable picture (and percentage) of the state’s performance and success in these

areas. ~~As with all metrics, sample size must be considered in interpreting the results listed below. When conducting research, quality sampling may be characterized by the number and selection of subjects or observations. Obtaining a sample size that is appropriate in both regards is critical for many reasons. Most importantly, a large sample size is more representative of the population, limiting the influence of outliers or extreme observations. Regarding these two metrics, the relatively small sample size diminishes the confidence in these results.~~ Region 7 also recognizes that an average quantitative metric over several years of the state's performance in these areas may be applied to the years outside the review period as a means of reaching broad overarching conclusions for strengthening performance in this area. ~~dilute the conclusions that can be drawn from the percentages.~~

The Department nevertheless recognizes the importance of addressing and/or removing HPVs, consistent with EPA's HPV policy, and ensuring that these efforts are documented. We have begun immediate corrective actions. Specifically:

- 1. Procedures now require staff to develop a resolution time frame for cases that may take more than 180 days to resolve, and share that with the Compliance and Enforcement Section Chief.*
- 2. Procedures now require the Compliance and Enforcement Section Chief share a resolution time frame with appropriate EPA staff for any cases that may take more than 180 days to resolve.*
- 3. Procedures now require HPVs to be addressed or removed consistent with the HPV policy.*
- 4. Staff are trained regarding formal enforcement responses that include required corrective actions that will return the facility to compliance in a specified time frame.*
- 5. Staff are trained regarding timely HPV case development and resolution.*
- 6. Procedures now require staff to identify compliance issues noted in inspection reports and correspondence to facilities as FRVs and HPVs, if the issues fall into these categories of violation, to ensure proper documentation of the issues.*
- 7. Procedures now require supervisors and managers to review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.*
- 8. The Air Program is developing training material to present to Compliance and Enforcement staff, including regional office inspectors, during a scheduled training event in June 2020.*

EPA acknowledges MDNR's initial steps to address Data metrics 9a, 10a, 10b, and 14. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

Again, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations, regardless of FRV or HPV status, during the time period evaluated. The four attached reports

illustrate the successful efforts by the Department during FFY2017 and FFY2018 to address FRVs through compliance assistance and through referrals and orders.

See EPA Response in Finding 3.1

No changes have been made in the final report in response to this comment.

The Air Program will document updated processes regarding this issue and include them in SOPs, which we will provide to EPA Region 7 within 60 days of completion of the SRF Final Report. The submittal will also contain a detailed description of the tracking system we use for HPV enforcement cases. Air Program staff will discuss the progress of HPV enforcement cases, including any foreseeable delays in case development and resolution of cases, during coordination calls with EPA Region 7 staff.

Noted.

Recommendation:

Rec #	Due Date	Recommendation
1	12/01/2020	<p>EPA understands HPV cases are more complex and require additional time to resolve. EPA recommends MDNR develop an SOP for EPA review that describes, a) the process to identify; and b) system to track HPV and formal enforcement responses. The SOP should address:</p> <ul style="list-style-type: none"> • Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame; • Timely HPV case development and resolution; and • Data entry for HPV and formal enforcement responses. <p>Implementation of an HPV case and formal enforcement response tracking system (with entry to ICIS-AIR) will allow MDNR to identify areas for improvement in HPV cases development and assist in meeting the HPV policy for timely enforcement. The SOP should also include a written plan for information sharing with EPA. This process will be communicated in the form of a written SOP for review and approval by EPA by December 1, 2020. This submittal should include a copy/printout from the tracking system used for HPV enforcement cases.</p> <p>EPA and MDNR will discuss progress of HPV enforcement cases during monthly enforcement coordination meetings; coordinate and communicate the progress and updates to ensure appropriate follow-ups. MDNR should include discussion of any foreseeable delays to Region 7 staff during monthly coordination calls, or as needed.</p> <p>This recommendation will be deemed complete upon:</p> <ol style="list-style-type: none"> 1. Submittal and adequate implementation of the SOP; 2. EPA review of MDNR data and facility files for HPV and formal enforcement responses. During the FY20 annual data metric analysis, EPA will review MDNR frozen data and will randomly pull a selection of facilities from the data set. If the sampling of files indicates achievement of 85% of the relevant metrics (9a,10a,10b,14) and adequate implementation of the SOP, EPA will close this recommendation. If the FY20 pull does not achieve this threshold, EPA will review data from subsequent years until the threshold is met.

CAA Element 5 - Penalties

Finding 5-1

Area for Improvement

Summary:

Penalty calculation documentation did not account for economic benefit. Some files did not include documentation that penalties were collected.

Explanation:

For the MDNR 2018 files reviewed, one of the files included the penalty calculation worksheets.

In terms of penalty collection, EPA did not consistently find documentation in the file that penalties were collected.

Relevant metrics:

11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		0	5	0%
12b Penalties collected [GOAL]	100%		3	5	60%

State Response: Without knowing in which files EPA found deficiencies, we cannot provide a detailed response. We request additional information on the specific files regarding missing penalty documentation so we can ensure the official records are complete. While some of the files that EPA reviewed apparently did not include documentation that penalties were collected, the Department did in fact collect all penalties assessed, or referred cases to the Attorney General's Office for collection if the responsible party failed to pay the penalty.

The Air Program will follow HPV guidance and state rule 10 CSR 10-6.230 "Administrative Penalties" in regards to the use of an economic benefit penalty where appropriate. In addition, the Air Program has amended its penalty policy and worksheet which includes both gravity and economic benefit components, and will submit a copy of it within 60 days of completion of the SRF Final Report. The SOPs discussed above will include the requirement to file appropriate documentation indicating payment of the penalty, including a copy of the check with the routing number and account number redacted, or other appropriate documentation.

EPA RESPONSE TO STATE COMMENTS: EPA transmitted the facility file selection list to MDNR on May 20, 2019, including the files reviewed for penalty assessment and collection.

The Air Program will follow HPV guidance and state rule 10 CSR 10-6.230 "Administrative Penalties" in regards to the use of an economic benefit penalty where appropriate. In addition, the Air Program has amended its penalty policy and worksheet which includes both gravity and

economic benefit components, and will submit a copy of it within 60 days of completion of the SRF Final Report. The SOPs discussed above will include the requirement to file appropriate documentation indicating payment of the penalty, including a copy of the check with the routing number and account number redacted, or other appropriate documentation.

Noted. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

Recommendation:

Rec #	Due Date	Recommendation
1	02/01/2021	<p>EPA recommends MDNR continue efforts to finalize a penalty policy and develop a standardized penalty calculation worksheet within 90 days of completion of this report, which ensures:</p> <ul style="list-style-type: none">• Documentation of gravity and economic benefit components; and• Documentation of penalties collected. <p>This recommendation will be deemed complete upon MDNR implementation of a formal penalty policy, as demonstrated by formal documented use in MDNR case resolution negotiations. At the end of FY20, EPA will review a selection of MDNR files with penalties, and if the sampling indicates achievement of 85% of the relevant data metrics during the annual data metric analysis for FY2020, EPA will close this recommendation. If the FY20 data pull does not achieve this accuracy level, EPA will review data from subsequent years until the threshold is met.</p>

CAA Element 5 - Penalties

Finding 5-2

Area for Attention

Summary:

Documentation of the difference between initial penalty calculation and final penalty was present and followed policy in most but not all files.

Explanation:

MDNR files did contain documentation for 4 of the 5 facilities reviewed for the documentation of rationale for difference between initial penalty calculation and final penalty. EPA suggests MDNR incorporate language regarding this element into its penalty policy for consistency and to meet the national metric goal.

Relevant metrics:

12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		4	5	80%

State Response: The Air Program is revising procedures to document the rationale for differences between the initial penalty calculation and final penalty calculation. We will include this requirement in our penalty policy and worksheet, which we will submit to EPA within 60 days of completion of the SRF Final Report.

EPA RESPONSE TO STATE COMMENTS: Noted. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

MDNR Conclusion: We appreciate EPA's consideration of our responses. We want to stress again that Air Program staff and the Department's regional office inspectors effectively evaluated compliance, documented violations, and worked with facilities to correct violations during the time period reviewed, and continue to do so.

We appreciate MDNRs thoughtful responses to the draft SRF report. We place a high value on our continued strong partnership and mutual commitment to open communication as we work together toward resolution of the issues identified during the Round 4 SRF review process. We are confident the path outlined in the final report will strengthen our mutual efforts of protection of human health and the environment.

Appendix 1

Missouri Department of Natural Resources' Response Letter



May 7, 2020

David Cozad, Director
Enforcement and Compliance Division
U.S. EPA Region 7
11201 Renner Boulevard
Lenexa, KS 66219

RE: State Review Framework, FFY2018
Clean Air Act
Draft Report Response

Dear David Cozad:

The Missouri Department of Natural Resources' Air Pollution Control Program (Air Program) received the draft report of the U.S. Environmental Protection Agency's (EPA) review of Missouri's Clean Air Act (CAA) enforcement program for Federal Fiscal Year (FFY) 2018. This letter contains our response to the findings in the draft report. We appreciate EPA's consideration in allowing us the opportunity to respond to the draft report before issuance of the final report.

The draft report notes some areas of strong performance, and it also notes some priority areas for improvement. The areas of strong performance include:

- Our review of Title V annual certification reports, and
- Our documentation of full compliance evaluation elements in inspection reports.

Areas identified for improvement largely include:

- Timeliness and accuracy of data reported to ICIS-Air,
- Classification of violations as Federally Reportable Violations (FRVs) or High Priority Violations (HPVs), and
- Timely resolution of these violations.

General Response:

1. The report's findings regarding areas for improvement during the time period reviewed are largely the result of reporting and file documentation deficiencies; rather than any failure to evaluate compliance, document violations, or work with facilities to correct violations. We acknowledge that adequate and timely documentation and reporting of our compliance work is an essential function of state implementation of the CAA. However, as our detailed responses below will show, the program effectively evaluated compliance, documented violations, and

worked with facilities to correct violations during the time period reviewed, and continues to do so.

2. It is also important to note that our Air Program had already identified and begun to address many of the reporting lapses in the fall of 2018, prior to the beginning of EPA's State Review Framework (SRF) review in June 2019. However, the Program had not made retroactive changes to our files. Therefore our reporting improvements were not reflected in your FFY2018 review. The Program completed the final data check for FFY2019 data prior to the data freeze, and we believe FFY2019 will show significant improvement in the accuracy and completeness of the data. Specifics regarding our corrective actions are detailed below.
3. Finally, we note that the EPA's FFY2018 review caught the Department in the middle of a significant transition that impacted our data entry and data management. The Air Program was adjusting its compliance resolution strategy just prior to the beginning of FFY2018. Many issues that would have previously been referred to the Air Program for enforcement action are now being resolved by our regional offices through a robust compliance assistance program.

Detailed Response to Findings:

Finding 1-1:

Area for Improvement. Data Metric 2b - Files reviewed where data are accurately reflected in the national data system.

Summary:

The review exposed inaccuracies in data in the Integrated Compliance Information System (ICIS) ICIS-Air database as compared to Air Program facility files. The review also revealed missing Minimum Data Requirements (MDRs).

Response:

The Air Program acknowledges the importance of accuracy and minimizing discrepancies in our data. The Program had identified these issues and had implemented corrective action, but had not made retroactive changes to our files by the time EPA began its review. We continue to review our current ICIS-Air data entry procedures and evaluate the accuracy of data entry and our filing procedures. The Program will document modifications to our procedures in revised Standard Operating Procedures (SOPs), and provide those to EPA within 60 days of completion of the SRF Final Report.

We also request that EPA provide detail on the specific files where discrepancies were noted so that we can ensure the official records are complete.

Finding 1-2:

Area for Improvement. Data metrics 3a2 - Timely reporting of HPV determinations, 3b1 - Timely reporting of compliance monitoring MDRs, 3b2 - Timely reporting of stack test dates and results, and 3b3 - Timely reporting of enforcement MDRs.

Summary:

Timely reporting of HPV determinations; compliance monitoring MDRs; stack test dates and results; and enforcement MDRs are all below the national goal and national averages.

Response:

We acknowledge that adequate and timely reporting of our work is an essential function. We have begun immediate corrective actions to ensure that previous data is uploaded to ICIS-Air and future reporting is complete and timely. Specifically:

1. Our procedures now require that staff provide data to the ICIS-Air data steward in a timely fashion, a minimum of twice per month.
2. It is now policy that the data steward and supervisory staff review and compare our records to the Enforcement and Compliance History Online (ECHO) database on a monthly basis, and coordinate with EPA staff to verify that the data uploaded to ICIS-Air is accurate and complete.
3. Staff are all trained in the HPV and FRV policies.

While EPA has acknowledged improvements in the Program's FFY2019 data, we continue to review our current procedures, train staff, and evaluate our coordination and communication practices to ensure relevant data is timely provided to our staff members that are responsible for ICIS-Air data entry. We are also evaluating current workloads and considering a realignment of duties to ensure data entry is prioritized.

We will document modifications to our procedures and include them in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

Finding 2-1:

Area for Improvement. Data metrics 5a – Full compliance evaluation (FCE) coverage: majors and mega-sites and 5b - FCE coverage: SM-80s. (Note: SM-80s are synthetic minor sources that emit or have the potential to emit at or above 80% of the Title V major source threshold).

Summary:

Missouri Department of Natural Resources FCE coverage of majors, mega-sites, and SM-80s is below the national goal and national averages.

Response:

Air Program staff reviewed internal databases and compared it to information located in the ECHO database for FFY2018. We found a number of discrepancies specific to major sources, mega-sites, and SM-80s listed within the databases that had gone out of business, or were otherwise not part of this

source category. In addition, we found discrepancies with the number of inspections conducted in this source category. As a result of this review and the discrepancies we identified, the Air Program believes this finding is a data integrity issue.

The Air Program respectfully requests that EPA staff re-run the data for the FFY2018 period to verify corrections to the number of active facilities in this class and corrections to the number of facilities inspected in this class. We believe updates to the database will show a marked improvement in this metric. Furthermore, if the data reveals that this issue has been resolved by our agency without additional oversight, we request that EPA consider reclassifying this issue as an "area for attention."

Importantly, the Air Program has initiated steps to ensure data in ECHO and ICIS-Air is accurately represented going forward. In March 2020, Program staff compared FFY2019 and later data regarding these classes of facilities to data in the ECHO database and made necessary updates. Air Program staff will discuss this area as necessary during coordination calls with EPA Region 7 staff and we will document modifications to our procedures and include these modifications in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

The Air Program is also working with EPA Region 7 staff to identify tools the Department's regional office staff can utilize for inspection planning purposes - specifically information relating to the date of last inspection for this class of facilities in the ECHO database. We will develop SOPs specific to inspection planning to include utilization of the tools and data available in ECHO. Due to the time it may take to work with Region 7 staff to identify the specific tools, coordinate the use of these tools with our five regional offices, and to draft SOPs for our five regional offices, the Air Program requests a deadline to submit these specific SOPs to EPA within 120 days of completion of the SRF Final Report.

Finding 2-2:

Meets or Exceeds Expectations. Data metric 5e - Reviews of Title V annual compliance certifications completed.

Summary:

The Air Program's review of Title V annual certifications is exemplary.

Response:

The Air Program appreciates EPA's acknowledgement of our success under this element.

Finding 2-3:

Meets or Exceeds Expectations. Data metrics 6a - Documentation of FCE elements and 6b - Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility.

Summary:

The Department of Natural Resources' documentation of FCE elements in inspection reports as well as documentation to determine compliance meets expectations.

Response:

The Air Program appreciates EPA's acknowledgement of our success under this element.

Finding 3-1:

Area for Improvement. Data metrics 13 - Timeliness of HPV identification, 7a - accurate compliance determinations, 7a1 - FRV 'discovery rate' based upon inspections at compliance monitoring strategy (CMS) sources, 8a - HPV discovery rate at majors, and 8c - accuracy of HPV determinations.

Summary:

Where documentation was present to review, the Air Program did not demonstrate proficiency with accurate FRV and HPV compliance determinations.

The Air Program uses separate tracking databases to track these violations even though they are required elements of the national tracking system.

The Department of Natural Resources created a unique category of compliance determination.

Response:

First, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations during the time period evaluated. In support, we are attaching reports to illustrate the successful efforts by the Air Program to address FRVs through compliance assistance and through referrals and orders during FFY17 and FFY18.

The Air Program nevertheless acknowledges the importance of appropriately classifying violations as FRV and/or HPV, and we have begun immediate corrective actions to ensure the appropriate classification of all violations. Specifically:

1. Our procedures now require that staff identify compliance issues as FRVs and HPVs, if the issues fall into these categories of violation, in inspection reports and correspondence sent to facilities to ensure proper documentation of the violations.
2. Supervisors and managers must review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.
3. Staff are trained regarding proper compliance evaluation determinations.

4. Staff are trained in the HPV and FRV policies, including the requirement to notify facilities of HPVs within 45 days of discovery.

The Air Program conducted individual training on FRV and HPV policies with all relevant staff members. In addition, the Program is developing training materials to present to all compliance and enforcement staff, including regional office inspectors, during a scheduled training event this coming June.

EPA further expressed concern about the Air Program's use of separate databases to track violations. The databases that the Air Program use are important communication tools between the Air Program, the Department's Regional Offices, and other programs within the Division of Environmental Quality. They allow program and regional staff to view compliance and enforcement data across the programs and across the state. In addition, the Air Program uses these internal databases to generate reports regarding inspection and enforcement activities to share with the public, stakeholders, and the Missouri Air Conservation Commission. EPA's ECHO and ICIS-Air databases do not have the tools we need to fulfill these functions and are not broadly available to Department staff. While having duplicate databases may be seen as inefficient, the important outcome here is that the correct information is entered into EPA's national tracking system. We are committed to ensuring that all relevant information is properly submitted by the Air Program.

Finally, EPA noted that the Department is using a unique category of compliance in the Air Program. While we understand EPA's concern with national consistency, the Department believes that the use of "unsatisfactory finding" letters is consistent with EPA's September 2014 memorandum regarding *Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources*. In that memorandum, EPA details that formal notice of a FRV or potential FRV to a source may be provided in a variety of ways:

For example, such formal notice may be a Notice of Violation (NOV), Notice to Correct (NTC), Notice of Opportunity to Correct (NOC), Notice to Comply (NTC), or Notice of Noncompliance (NON). **Regardless of the name of the formal notice of violation**, if the purpose of the formal notice is to notify a source of an FRV, it is to be reported to ICIS-Air. (Emphasis added).

As the attached policy excerpt shows, the use of an "unsatisfactory finding" letter is to formally notify a source of a compliance issue and the requirement to take necessary action to resolve the compliance issue. Therefore, we believe that issuing a notice of "unsatisfactory finding" and reporting these letters to ICIS-Air achieves the desired outcome of formally notifying a source of a FRV or potential FRV.

Finding 4-1:

Area for Improvement. Data metrics 10a - Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place, 10b - Percent of HPVs that have been addressed or removed consistent with the HPV Policy, 14 - HPV case development and resolution timeline in place

when required that contains required policy elements, and 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.

Summary:

The Air Program does not meet the objectives of the HPV policy in terms of enforcement responses, compliance schedules, timeliness, and return to compliance.

Response:

Without knowing in which files EPA found deficiencies, it is impossible for the state to respond specifically as to the accuracy of this finding. There may be cases in which the violation was resolved through a non-formal process that did not require case development or a resolution timeline. In other cases, those mechanisms may have been developed but, consistent with past practice, were not documented in the paper file. In order to provide a thorough response, it is necessary to know which files EPA reviewed.

Further, the report notes with regard to metrics 10B and 14 that "the low sample population size of HPV facilities reviewed from multiple previous years does not offer a reliable picture of the state's performance and success." The report also notes that "the relatively small sample size diminishes the confidence in these results." Given these limitations, the Department requests that EPA withdraw these findings from the final report or provide a determination of "Inconclusive," rather than have the record reflect a performance result that is not well-documented.

The Department also requests that the sample size used for metrics 10b and 9a be re-considered in the same light.

The Department nevertheless recognizes the importance of addressing and/or removing HPVs, consistent with EPA's HPV policy, and ensuring that these efforts are documented. We have begun immediate corrective actions. Specifically:

1. Procedures now require staff to develop a resolution time frame for cases that may take more than 180 days to resolve, and share that with the Compliance and Enforcement Section Chief.
2. Procedures now require the Compliance and Enforcement Section Chief share a resolution time frame with appropriate EPA staff for any cases that may take more than 180 days to resolve.
3. Procedures now require HPVs to be addressed or removed consistent with the HPV policy.
4. Staff are trained regarding formal enforcement responses that include required corrective actions that will return the facility to compliance in a specified time frame.
5. Staff are trained regarding timely HPV case development and resolution.
6. Procedures now require staff to identify compliance issues noted in inspection reports and correspondence to facilities as FRVs and HPVs, if the issues fall into these categories of violation, to ensure proper documentation of the issues.

7. Procedures now require supervisors and managers to review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.
8. The Air Program is developing training material to present to Compliance and Enforcement staff, including regional office inspectors, during a scheduled training event in June 2020.

Again, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations, regardless of FRV or HPV status, during the time period evaluated. The four attached reports illustrate the successful efforts by the Department during FFY2017 and FFY2018 to address FRVs through compliance assistance and through referrals and orders.

The Air Program will document updated processes regarding this issue and include them in SOPs, which we will provide to EPA Region 7 within 60 days of completion of the SRF Final Report. The submittal will also contain a detailed description of the tracking system we use for HPV enforcement cases. Air Program staff will discuss the progress of HPV enforcement cases, including any foreseeable delays in case development and resolution of cases, during coordination calls with EPA Region 7 staff.

Finding 5-1:

Area for Improvement. Data metrics 11a - Penalty calculations reviewed that document gravity and economic benefit and 12b - Penalties collected

Summary:

Penalty calculation documentation did not account for economic benefit. Some files did not include documentation that penalties were collected.

Response:

Without knowing in which files EPA found deficiencies, we cannot provide a detailed response. We request additional information on the specific files regarding missing penalty documentation so we can ensure the official records are complete. While some of the files that EPA reviewed apparently did not include documentation that penalties were collected, the Department did in fact collect all penalties assessed, or referred cases to the Attorney General's Office for collection if the responsible party failed to pay the penalty.

The Air Program will follow HPV guidance and state rule 10 CSR 10-6.230 "Administrative Penalties" in regards to the use of an economic benefit penalty where appropriate. In addition, the Air Program has amended its penalty policy and worksheet which includes both gravity and economic benefit components, and will submit a copy of it within 60 days of completion of the SRF Final Report. The SOPs discussed above will include the requirement to file appropriate documentation indicating payment of the penalty, including a copy of the check with the routing number and account number redacted, or other appropriate documentation.

David Cozad
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Finding 5-2:

Area for Attention. Data metric 12a - Documentation of rationale for difference between initial penalty calculation and final penalty.

Summary:

Documentation of the difference between initial penalty calculation and final penalty was present and followed policy in most but not all files.

Response:

The Air Program is revising procedures to document the rationale for differences between the initial penalty calculation and final penalty calculation. We will include this requirement in our penalty policy and worksheet, which we will submit to EPA within 60 days of completion of the SRF Final Report.

Conclusion

We appreciate EPA's consideration of our responses. We want to stress again that Air Program staff and the Department's regional office inspectors effectively evaluated compliance, documented violations, and worked with facilities to correct violations during the time period reviewed, and continue to do so.

We look forward to further discussions regarding the draft report prior to EPA's issuance of the final report. Please contact Mr. Richard Swartz of my staff with any questions or to schedule any meetings. Mr. Swartz can be reached at the Air Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102-0176, by telephone at (573) 751-4817, or by email at richard.swartz@dnr.mo.gov.

Sincerely,

AIR POLLUTION CONTROL PROGRAM



Darcy A. Bybee
Director

DAB/rs

Enclosure

c: Ed Galbraith, Director, Division of Environmental Quality
Kyra Moore, Deputy Director, Division of Environmental Quality
Deanna Boland, Division of Environmental Quality
Amanda Sifford, Division of Administrative Support Program

Missouri Department of Natural Resources
Division of Environmental Quality
Unsatisfactory Finding Compliance Determinations & Letters

Unsatisfactory Findings

These are Group 3 Violations, which consist of noncompliance issues that are less serious and usually will not, on their own, lead to enforcement action. The noncompliance issues are documented with required actions and recommendations, if applicable. A report describing the Unsatisfactory Findings and the required actions will be provided to the entity. A response will be required from the entity. The entity will continue to be in noncompliance until the required actions are addressed. Group 3 Violations will usually be reevaluated during the next inspection or investigation and additional enforcement action will be taken if deemed appropriate at that time.

The list of Group 3 Violations follows:

- Group 2 Violations that are self-reported or corrected during the inspection or within one week thereafter (and before the report is issued).
- Violations being addressed through a prior approved schedule of action(s) provided the entity is in compliance with the approved agreement.
- Minor violations such as:
 - Recordkeeping not current (within 5 days).
 - Recordkeeping unavailable during the inspection but provided upon request within one week.
 - Minimal dust.
 - Open burning of less than 64 cubic feet (2 cubic yards) waste materials with limited human health and off-site environmental impacts.
 - Failure to provide asbestos contractor registration certificate or worker certificate if currently registered/certified.
 - Asbestos issues (signs, timing, etc.) that do not have a direct impact on human health or the environment.

Missouri Department of Natural Resources - Air Pollution Control Program
Letters of Warning and Notices of Violation Issued Between October 1, 2017 and September 30, 2018

INSPECTION_ID	FACILITY_NAME	CITY	TYPE_DESCRIPTION	DATE
AP: Inspection: Intermediate				
ACEINS128926	OID BELL PRESS INC FULTON	FULTON	Inspection Date	1/23/2018
			Report Date	2/16/2018
			Unsatisfactory Findings	2/16/2018
			Return to Compliance	2/16/2018
ACEINS131946	HERMANN OAK LEATHER CO	ST. LOUIS	Inspection Date	2/23/2018
			Report Date	5/2/2018
			Letter of Warning	5/2/2018
			Return to Compliance	5/29/2018
ACEINS134833	ITW LABELS FORMERLY DIAGRAPH LABELING	ST. CHARLES	Inspection Date	5/21/2018
			Report Date	7/13/2018
			Letter of Warning	7/13/2018
			Return to Compliance	8/20/2018
AP: Inspection: Part 70				
ACEINS124791	MONROE CITY POWER PLANT	MONROE CITY	Inspection Date	10/4/2017
			Report Date	10/11/2017
			Unsatisfactory Findings	10/11/2017
			Return to Compliance	10/11/2017
ACEINS124794	TEVA PHARMACEUTICALS USA	MEXICO	Inspection Date	9/13/2017
			Report Date	10/13/2017
			Letter of Warning	10/13/2017
			Return to Compliance	12/11/2017
ACEINS125351	SHOW ME ETHANOL LLC	CARROLLTON	Inspection Date	10/19/2017
			Report Date	10/26/2017
			Unsatisfactory Findings	10/26/2017
			Return to Compliance	10/26/2017
ACEINS127032	CONOCO PHILLIPS PIPELINE COMPANY	JEFFERSON CITY	Inspection Date	11/27/2017
			Report Date	12/20/2017
			Unsatisfactory Findings	12/20/2017
			Return to Compliance	12/20/2017

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Missouri Department of Natural Resources - Air Pollution Control Program
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INSPECTION_ID	FACILITY_NAME	CITY	TYPE_DESCRIPTION	DATE
ACEINS129906	ST JOSEPH SANITARY LANDFILL(2)	ST. JOSEPH	Inspection Date Report Date Unsatisfactory Findings Return to Compliance	2/26/2018 3/15/2018 3/15/2018 3/15/2018
ACEINS130762	CONTINENTAL CEMENT COMPANY LLC GREEN AME	HANNIBAL	Inspection Date Report Date Unsatisfactory Findings	2/15/2018 3/28/2018 3/28/2018
ACEINS131381	ABLE MANUFACTURING & ASSEMBLY L.L.C. - S	JOPLIN	Inspection Date Report Date Letter of Warning Return to Compliance	3/7/2018 4/24/2018 4/24/2018 5/24/2018
ACEINS132215	ALLEN INDUSTRIES LLC (EDWARDS FRP TANK &	SEDALIA	Inspection Date Report Date Unsatisfactory Findings Return to Compliance	4/10/2018 5/14/2018 5/14/2018 5/14/2018
ACEINS137740	KCPL HAWTHORNE STATION	KANSAS CITY	Inspection Date Report Date Letter of Warning Return to Compliance	8/22/2018 9/19/2018 9/19/2018 11/29/2018
AP: Investigation: Intermediate				
ACEINS134561	MWT BULK SERVICES, LLC	KANSAS CITY	Inspection Date Report Date Letter of Warning Return to Compliance	6/26/2018 7/5/2018 7/5/2018 10/15/2018

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Missouri Department of Natural Resources - Air Pollution Control Program
Letters of Warning and Notices of Violation Issued Between October 1, 2016 and September 30, 2017

INSPECTION_ID	FACILITY_NAME	CITY	TYPE_DESCRIPTION	DATE
AP: Inspection: Intermediate				
ACEINS116167	SAF HOLLAND	WARRENTON	Inspection Date Report Date Letter of Warning Return to Compliance	1/10/2017 3/3/2017 3/3/2017 4/17/2017
ACEINS116731	OID BELL PRESS INC FULTON	FULTON	Inspection Date Report Date Letter of Warning Return to Compliance	2/8/2017 3/10/2017 3/10/2017 4/26/2017
ACEINS119754	SULLIVAN PRECISION METAL FINISHING	SULLIVAN	Inspection Date Report Date Letter of Warning Return to Compliance	5/23/2017 6/15/2017 6/15/2017 9/6/2018
ACEINS120072	BUTLER MUNICIPAL POWER PLANT	BUTLER	Inspection Date Report Date Letter of Warning Return to Compliance	5/16/2017 6/20/2017 6/20/2017 7/24/2017
ACEINS122003	UNILEVER BEST FOODS N. AMERICA (LIPTON T	INDEPENDENCE	Inspection Date Return to Compliance Report Date Letter of Warning	6/26/2017 7/5/2017 8/17/2017 8/17/2017
ACEINS122183	KCI AIRPORT - KCMO AVIATION DEPT - KCI A	KANSAS CITY	Inspection Date Report Date Letter of Warning Return to Compliance	6/26/2017 8/22/2017 8/22/2017 9/26/2017
ACEINS122940	AYERS OIL COMPANY	CANTON	Inspection Date Report Date Unsatisfactory Findings Return to Compliance	7/26/2017 8/29/2017 8/29/2017 8/29/2017
ACEINS122968	HUEBERT FIBERBOARD INC BOONVILLE	BOONVILLE	Inspection Date Report Date	8/29/2017 9/7/2017

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Missouri Department of Natural Resources - Air Pollution Control Program
Letters of Warning and Notices of Violation Issued Between October 1, 2016 and September 30, 2017

INSPECTION_ID	FACILITY_NAME	CITY	TYPE_DESCRIPTION	DATE
ACEINS123138	KAHOKA ELECTRIC GENERATING PLANT	KAHOKA	Letter of Warning	9/7/2017
			Return to Compliance	10/10/2017
			Inspection Date	8/23/2017
			Report Date	9/13/2017
			Letter of Warning	9/13/2017
			Return to Compliance	10/27/2017
AP: Inspection: Part 70				
ACEINS111126	REMINGTON ARMS COMPANY	LEXINGTON	Inspection Date	7/28/2016
			Report Date	9/30/2016
			Letter of Warning	9/30/2016
			Referral Notice of Violation	12/7/2016
ACEINS111868	CENTRAL MISSOURI SANITARY LANDFILL	SEDALIA	Inspection Date	9/19/2016
			Report Date	10/21/2016
			Referral Notice of Violation	10/21/2016
			Enforcement Action Request	10/21/2016
			Notice of Violation	10/21/2016
ACEINS113827	BLUESCOPE BUILDINGS NA, INC. - ST. JOSEP	ST. JOSEPH	Inspection Date	9/26/2016
			Report Date	12/19/2016
			Letter of Warning	12/19/2016
			Return to Compliance	2/16/2017
ACEINS114923	FULTON MUNICIPAL UTILITIES	FULTON	Inspection Date	12/23/2016
			Report Date	1/18/2017
			Letter of Warning	1/18/2017
			Return to Compliance	2/28/2017
ACEINS115406	MONROE CITY POWER PLANT	MONROE CITY	Inspection Date	12/21/2016
			Report Date	1/26/2017
			Letter of Warning	1/26/2017
			Return to Compliance	10/11/2017
ACEINS116294	CONTINENTAL CEMENT COMPANY LLC GREEN AME	HANNIBAL	Inspection Date	1/12/2017
			Report Date	3/2/2017

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Missouri Department of Natural Resources - Air Pollution Control Program
Letters of Warning and Notices of Violation Issued Between October 1, 2016 and September 30, 2017

INSPECTION_ID	FACILITY_NAME	CITY	TYPE_DESCRIPTION	DATE
			Letter of Warning	3/2/2017
			Return to Compliance	3/14/2017
ACEINS118525	DUDLEY'S TREE AND STUMP	CARTERVILLE	Inspection Date	4/24/2017
			Report Date	5/11/2017
			Referral Notice of Violation	5/11/2017
ACEINS119840	EAGLE RIDGE SLF	BOWLING GREEN	Inspection Date	5/17/2017
			Report Date	6/9/2017
			Letter of Warning	6/9/2017
			Return to Compliance	6/26/2017

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Air Pollution Control Program

Finalized Agreements between October 01, 2017 and September 30, 2018

Responsible Party	Facility	Negotiation Initiated	Settled	Total Amount	Suspended Amount	Region
Asbestos						
Advanced Environmental	City of Pilot Grove Demolition Project	5/18/2017	5/15/2018	2000	1500	NERO
City of Sarcoxie	Old Service Station	9/19/2017	6/6/2018	4000	4000	SWRO
Dale Wands	Dale Wands Duplex Apartments and a House	11/13/2017	12/26/2017	4000	0	SERO
Garcia Holdings III, LLC	3800 Hampton Reovation	11/1/2017	6/26/2018	6000	4500	SLRO
Construction Permit						
Mark Barnes	For Your Convenience (Procl Operations)	11/3/2017	7/19/2018	4000	3000	SERO
Excess Emissions						
Joe LaBarge	Northstar Battery	3/1/2017	3/16/2018	4625	0	SWRO
Fugitive Dust						
John Papa	Ozark Hardwood Pellets	3/15/2016	3/14/2018	8850	6638	SWRO
Open Burning						
Brian Matt	Royal Oak Charcoal	2/1/2017	12/26/2017	8000	8000	SERO
Glenn Craig Thurmon Sr.	Glenn Graig Thurmon Sr	1/5/2017	8/15/2018	2000	2000	SERO
Randy Ray	Randy Ray	11/14/2017	5/17/2018	2000	1500	SWRO
Richard Wayne Moore	RM Pallet	6/1/2017	12/26/2017	3890	2890	SWRO
Rick Metcalf	Woody's Express Topsoil and Trucking	12/1/2017	6/13/2018	2000	1500	SWRO
Roy Brinkoetter	Big Iron Town	3/10/2016	12/15/2017	2000	1500	KCRO
Walter Cline	Walter Cline	10/17/2016	12/26/2017	2000	1500	NERO
Willard Barry	LG Barcus & Sons	11/29/2017	5/15/2018	2000	1500	SWRO
Reid Vapor Pressure (RVP)						
Asif Sarfani	Blue Ridge Food Stop	4/20/2017	5/1/2018	1000	500	KCRO
Stage I Vapor Recovery						
Mohammad Almuttan (Station)	Phillips 66 ST10652	5/2/2017	5/24/2018			SLRO
Phil Parker - Parker Petroleum	Crown Mart #17		12/1/2017	1500	1000	SLRO



Air Pollution Control Program

Finalized Agreements between October 01, 2016 and September 30, 2017

Responsible Party	Facility	Negotiation Initiated	Settled	Total Amount	Suspended Amount	Region
Asbestos						
City of Leadwood	Former Caroline's Auto Parts		11/7/2016	4000	4000	SERO
Donnie Vandevender	City of Trenton	9/16/2016	2/24/2017	4000	4000	NERO
Lyle Best	Osage R 1 School	8/9/2016	1/12/2017	1000	3000	NERO
Mike McNeamey	MSD demos: former residences at 1017 & 1019 Tillie	4/26/2016	1/3/2017	2000	1500	SLRO
Construction Permit						
Jay Muller	Kansas City Wilbert Vault		11/17/2016	4000	2000	KCRO
Jeff Goodwin	Complete Home Concepts	2/25/2016	12/6/2016	8000	6000	KCRO
John White	ZOLTEK		8/15/2017	25875	0	SLRO
Jon Melham	Northland Coating Solutions	3/10/2016	9/11/2017	2000	2000	KCRO
Mary Watkins	White Rock Quarries	6/13/2012	11/23/2016	0	0	SLRO
Rick Meeker	Polymeric U.S., Inc.	4/1/2016	5/5/2017	2000	1500	KCRO
Emissions Inventory Questionnaire						
Edward Potter	White Rock Quarries		11/23/2016	13586	12000	SLRO
Inspection/Maintenance - Fraud						
Mr. Woodrow Jones, Sr.	360 Brake Service (GVIP #115444)	11/25/2013	2/10/2017	50000	45000	SLRO
Open Burning						
Chuck Frank	Doolittle Trailers	6/8/2016	2/16/2017	6000	4500	NERO
Ryan Werdehausen	Doolittle Trailers	6/8/2016	11/1/2016	2000	2000	NERO
Steven Shott	Steven Shott	8/2/2016	1/19/2017	2000	1500	NERO
Zakhariy Izoita	Midwest Trans LLC	5/25/2016	11/7/2016	4000	3000	KCRO
Part 70 Operating Permit						
Chad Dykes	TEVA Pharmaceuticals USA	9/23/2015	3/28/2017	2000	2000	NERO
John Burns	Missouri Center for Waste to Energy	8/21/2015	9/7/2017	6000	4000	KCRO
Tim Baer	TG Missouri	3/3/2016	11/10/2016	2000	1500	SERO
Stage I Vapor Recovery						
Alpha Petroleum	Everyday Conoco ST13520		12/14/2016			KCRO
Alpha Petroleum	Everyday Store # 1090 ST3619		12/14/2016			KCRO
Javaid B Chaudhri, AJ Partnership	Everyday Conoco	4/18/2013	12/14/2016			KCRO
Javaid B. Chaudhri & Arshad Chaudhri	Everyday Store # 1090 ST3619	4/18/2013	12/14/2016			KCRO



Air Pollution Control Program

Finalized Agreements between October 01, 2016 and September 30, 2017

Responsible Party	Facility	Negotiation Initiated	Settled	Total Amount	Suspended Amount	Region
Javaid B. Chaudhri & Arshad Chaudhri	Sinclair Retail Station #24060 ST12977	4/18/2013	12/14/2016			KCRO
Javaid B. Chaudhri, Premier Petroleum	Service Oil Company #12	4/18/2013	12/14/2016			KCRO
Javaid B. Chaudhri, Premier Petroleum	Inner City Oil	4/18/2013	12/14/2016	31000	20000	KCRO
Mr. Mike Said	Crown Mart #17		3/1/2017	5000	3750	SLRO
Petro Holdings - John Anselmo	Crown Mart #18		3/1/2017	5000	3750	SLRO
Todd Burkhardt - Neumayer Equipment Co	MISSOURI AMERICAN WATER CO		1/17/2017			SLRO

Appendix 2

EPA Response to Missouri Department of Natural Resources' Comments

EPA Region 7 appreciates MDNR's responses to the draft SRF report. We recognize MDNR's clear commitment to process improvements, as demonstrated by the various immediate procedural enhancements, planned and implemented, to address the gravity of the findings. The responses and supplemental information were carefully considered in the context of the review framework. The input proved valuable in completing the report and finalizing the recommendations, which are designed to build a stronger partnership through our mutual work.

As discussed throughout the process, the SRF is a transparent, informed evaluation of the elements comprising MDNR's CAA stationary source compliance and enforcement program. These elements include: Data (completeness, timeliness and quality); Inspections (coverage and quality); Identification of violations and enforcement actions (appropriateness and timeliness); and Penalties (calculation, assessment and collection). In reviewing these program elements EPA strives for a comprehensive understanding of program processes and issues. The report identifies actions to address areas for improvement.

In order to conduct a review of each of program element, EPA limits the review period to a finite period of time (Round 4 – 2018 federal fiscal year (FFY) data). We use these frozen data and corresponding file documents to gain a comprehensive understanding of the state program. Data clean-up, confirmation, and amendments (if applicable) are requested during the data verification period set by EPA in advance of the review. There is no expectation of correction of the data (or files) mid-review. By design, EPA works to understand the program holistically, through the frozen data, as a means of strengthening program procedures in the future.

EPA places a critical emphasis on our role in ensuring adherence to national guidance and expectations for enforcement decisions and transparency in the information available for all communities in Missouri. Final SRF Reports are designed to provide factual information in order to facilitate program improvement. EPA will track recommended actions from the review in the SRF Manager database. Reports and recommendations will be published on EPA's ECHO web site.

Region 7 CAA technical staff would like to commend the efforts of MDNR's technical staff in preparing for and assisting with the review. We appreciate the time expended in hosting our staff, providing data, and helping us to better understand MDNR's program elements. The efforts of your staff demonstrate a commitment to implementing the delegated CAA program in the state, along with a commitment to working to resolve the findings of the SRF final report.

As a means of addressing EPA's responses to MDNRs comments on the SRF draft report, the following typeface style conventions will be used to specify the agency attribution:

EPA Draft SRF Report Finding

MDNR Comment on the draft SRF Report

EPA Response to MDNR comments

GENERAL COMMENTS

MDNR General Comment 1: The report's findings regarding areas for improvement during the time period reviewed are largely the result of reporting and file documentation deficiencies; rather than any failure to evaluate compliance, document violations, or work with facilities to correct violations. We acknowledge that adequate and timely documentation and reporting of our compliance work is an essential function of state implementation of the CAA. However, as our detailed responses below worked with facilities to correct violations during the time period reviewed, and continues to do so.

EPA RESPONSE: EPA appreciates MDNR's acknowledgement of data reporting and tracking deficiencies, along with the clear commitment to improve. Missouri is not unique among Region 7 states in file documentation deficiencies, as well as data systems communication issues. Region 7 is working collaboratively with each state to reconcile data tracking and data systems communication issues. EPA and MDNR have long been collaborative partners in the collective management of the stationary source CAA program. These efforts are demonstrated to the public through complete, timely information; and data that are easily and efficiently shared.

As discussed in greater detail below, the review of the 2018 files, as compared with the data in the national system demonstrate that MDNR's programmatic issues in implementing the program extend beyond data management. Following careful consideration of MDNR's publicly available national data along with a thorough review of MDNR's representative files, EPA found MDNR does not adhere to national guidance and expectations for compliance determinations.

MDNR General Comment 2: It is also important to note that our Air Program had already identified and begun to address many of the reporting lapses in the fall of 2018, prior to the beginning of EPA's State Review Framework (SRF) review in June 2019. However, the Program had not made retroactive changes to our files. Therefore our reporting improvements were not reflected in your FFY2018 review. The Program completed the final data check for FFY2019 data prior to the data freeze, and we believe FFY2019 will show significant improvement in the accuracy and completeness of the data. Specifics regarding our corrective actions are detailed below.

EPA RESPONSE: In response to the draft report, MDNR has provided descriptions for several new procedures that are being implemented prior to the issue of the final report. MDNR's comments on the draft report describe numerous efforts under consideration to address the timely entry of accurate data. EPA acknowledges the time and effort MDNR has dedicated to evaluating the data and reporting deficiencies documented in the draft SRF report, establishing a clear willingness to address these issues prior to issuance of the final report. EPA interprets these actions as a recognition of the gravity of the findings. We look forward to assessing the corrective actions taken on by the Department upon issue of the final report.

MDNR General Comment 3: Finally, we note that the EPA's FFY2018 review caught the Department in the middle of a significant transition that impacted our data entry and data management. The Air Program was adjusting its compliance resolution strategy just prior to the beginning of FFY2018. Many issues that would have previously been referred to the Air Program for enforcement action are now being resolved by our regional offices through a robust compliance assistance program.

EPA RESPONSE: Noted.

SPECIFIC COMMENTS

Finding 1 -1: Area for Improvement. Data Metric 2b - Files reviewed where data are accurately reflected in the national data system.

Summary: The review exposed inaccuracies in data in the Integrated Compliance Information System (ICIS) ICIS-Air database as compared to Air Program facility files. The review also revealed missing Minimum Data Requirements (MDRs).

MDNR Comment: The Air Program acknowledges the importance of accuracy and minimizing discrepancies in our data. The Program had identified these issues and had implemented corrective action, but had not made retroactive changes to our files by the time EPA began its review. We continue to review our current ICIS-Air data entry procedures and evaluate the accuracy of data entry and our filing procedures. The Program will document modifications to our procedures in revised Standard Operating Procedures (SOPs), and provide those to EPA within 60 days of completion of the SRF Final Report. We also request that EPA provide detail on the specific files where discrepancies were noted so that we can ensure the official records are complete.

EPA RESPONSE: The SRF final report and recommendations are intended to provide corrective actions to address procedural deficiencies identified in the frozen data from the subject review year. While the evaluation is data-focused, the recommendations are process focused, aimed at strengthening state procedures and protocols to ensure future adherence to national expectations of states authorized to implement the CAA program. Retroactive changes to the states files and data are not required as part of the SRF process.

EPA acknowledges MDNR's review of current ICIS-AIR data entry protocols and evaluation of the accuracy of data entry and filing procedures. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation.

No changes have been made in the final report in response to this comment.

Finding 1-2: Area for Improvement. Data metrics 3a2 - Timely reporting of HPV determinations, 3b1 - Timely reporting of compliance monitoring MDRs, 3b2 - Timely reporting of stack test dates and results, and 3b3 - Timely reporting of enforcement MDRs.

Summary: Timely reporting of HPV determinations; compliance monitoring MDRs; stack test dates and results; and enforcement MDRs are all below the national goal and national averages.

MDNR Comment: We acknowledge that adequate and timely reporting of our work is an essential function. We have begun immediate corrective actions to ensure that previous data is uploaded to ICIS-Air and future reporting is complete and timely. Specifically:

- 1. Our procedures now require that staff provide data to the ICIS-Air data steward in a timely fashion, a minimum of twice per month.*
- 2. It is now policy that the data steward and supervisory staff review and compare our records to the Enforcement and Compliance History Online (ECHO) database on a monthly basis, and coordinate with EPA staff to verify that the data uploaded to ICIS-Air is accurate and complete.*
- 3. Staff are all trained in the HPV and FRV policies.*

While EPA has acknowledged improvements in the Program's FFY2019 data, we continue to review our current procedures, train staff, and evaluate our coordination and communication practices to ensure relevant data is timely provided to our staff members that are responsible for ICIS-Air data entry. We are also evaluating current workloads and considering a realignment of duties to ensure data entry is prioritized.

We will document modifications to our procedures and include them in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

EPA RESPONSE: Noted. These efforts (proposed and implemented) will be assessed and reviewed following issuance of the final report, which will include recommendations for corrective actions to address the findings.

No changes have been made in the final report in response to this comment.

Finding 2-1: Area for Improvement. Data metrics 5a – Full compliance evaluation (FCE) coverage: majors and mega-sites and 5b - FCE coverage: SM-80s. (Note: SM-80s are synthetic minor sources that emit or have the potential to emit at or above 80% of the Title V major source threshold).

Summary: Missouri Department of Natural Resources FCE coverage of majors, mega-sites, and SM-80s is below the national goal and national averages.

MDNR Comment: Air Program staff reviewed internal databases and compared it to information located in the ECHO database for FFY2018. We found a number of discrepancies specific to major sources, mega-sites, and SM-80s listed within the databases that had gone out of business, or were otherwise not part of this source category. In addition, we found discrepancies with the number of inspections conducted in this source category. As a result of this review and the discrepancies we identified, the Air Program believes this finding is a data integrity issue. The Air Program respectfully requests that EPA staff re-run the data for the FFY2018 period to verify corrections to the number of active facilities in this class and corrections to the number of facilities inspected in this class. We believe updates to the database will show a marked improvement in this metric. Furthermore, if the data reveals that this issue has been resolved by our agency without additional oversight, we request that EPA consider reclassifying this issue as an "area for attention."

EPA RESPONSE: We appreciate MDNR's considerable efforts to conduct a root cause analysis of the FCE coverage issue in response to this finding in the draft report.

Prior to the formal SRF in July 2019, MDNR had several opportunities to review and correct the 2018 data, including during the data verification period preceding the data freeze, as well as the time period following transmittal of the file selection list. EPA does not re-run data metric analyses post-file review. It is outside the framework protocol to re-review data that has been cleaned up following the authorized review. We will evaluate process improvements made as a result of the SRF analysis in the data in subsequent years to measure progress, per the recommendations in the final report. EPA does not measure or record improvements made during the SRF process to past frozen data, nor amend program findings for data clean-up performed following the file review.

No changes have been made in the final report in response to this comment.

Importantly, the Air Program has initiated steps to ensure data in ECHO and ICIS-Air is accurately represented going forward. In March 2020, Program staff compared FFY2019 and later data regarding these classes of facilities to data in the ECHO database and made necessary updates. Air Program staff will discuss this area as necessary during coordination calls with EPA Region 7 staff and we will document modifications to our procedures and include these modifications in new SOPs, which we will provide to EPA within 60 days of completion of the SRF Final Report.

EPA acknowledges MDNR's initial steps to ensure data entry procedures for data in ECHO and ICIS-AIR provide for accurate public-facing data in the future. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the SOPs and progress MDNR has made following transmittal of the final report.

No changes have been made in the final report in response to this comment.

The Air Program is also working with EPA Region 7 staff to identify tools the Department's regional office staff can utilize for inspection planning purposes - specifically information relating to the date of last inspection for this class of facilities in the ECHO database. We will develop SOPs specific to inspection planning to include utilization of the tools and data available in ECHO. Due to the time it may take to work with Region 7 staff to identify the specific tools, coordinate the use of these tools with our five regional offices, and to draft SOPs for our five regional offices, the Air Program requests a deadline to submit these specific SOPs to EPA within 120 days of completion of the SRF Final Report.

MDNR's request to extend the deadline to submit the above referenced SOPs is reasonable. The report has been amended to accommodate the requested timeline.

Finding 2-2: Meets or Exceeds Expectations. Data metric 5e - Reviews of Title V annual compliance certifications completed.

Summary: The Air Program's review of Title V annual certifications is exemplary.

MDNR Comment: The Air Program appreciates EPA's acknowledgement of our success under this element.

EPA RESPONSE: No changes have been made in the final report in response to this comment.

Finding 2-3: Meets or Exceeds Expectations. Data metrics 6a - Documentation of FCE elements and 6b - Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility.

Summary: The Department of Natural Resources' documentation of FCE elements in inspection reports as well as documentation to determine compliance meets expectations.

MDNR Comment: The Air Program appreciates EPA's acknowledgement of our success under this element.

EPA RESPONSE: No changes have been made in the final report in response to this comment.

Finding 3-1: Area for Improvement. Data metrics 13 - Timeliness of HPV identification, 7a - accurate compliance determinations, 7a1 - FRV 'discovery rate' based upon inspections at compliance monitoring strategy (CMS) sources, 8a - HPV discovery rate at majors, and 8c - accuracy of HPV determinations.

Summary: Where documentation was present to review, the Air Program did not demonstrate proficiency with accurate FRV and HPV compliance determinations. The Air Program uses separate tracking databases to track these violations even though they are required elements of the national tracking system. The Department of Natural Resources created a unique category of compliance determination.

MDNR Response: First, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations during the time period evaluated. In support, we are attaching reports to illustrate the successful efforts by the Air Program to address FRVs through compliance assistance and through referrals and orders during FFY17 and FFY18.

EPA RESPONSE: The submitted MDNR internal reports are outside the scope of the SRF Round 4 review. These reports do not provide additional relevant evidence for EPA to evaluate MDNR's accuracy of compliance determinations in the CAA program.

The Round 4 SRF evaluation studied 35 facilities that were selected as a representative sample of all aspects of MDNR's CAA compliance and enforcement work for the 2018 fiscal year. In reviewing the supplemental information provided, it appears MDNR has provided a list of finalized agreements with seventeen facilities in various program areas outside of the CAA SRF review areas; programs such as asbestos, which are beyond the scope of this CAA SRF review. For the single applicable facility (Northstar Battery) that could potentially be subject to this review, a) this facility was not among the predetermined SRF facility set; and b) there is no

material to give context to the basis and nature of the agreement executed in 2018 to inform an evaluation, including information on the particular violation(s), timelines, procedures, reporting, public access to data, penalties (if any), and resolution. EPA therefore cannot use the supplemental information to inform the final report.

No changes have been made in the final report in response to this comment.

The Air Program nevertheless acknowledges the importance of appropriately classifying violations as FRV and/or HPV, and we have begun immediate corrective actions to ensure the appropriate classification of all violations. Specifically:

- 1. Our procedures now require that staff identify compliance issues as FRVs and HPVs, if the issues fall into these categories of violation, in inspection reports and correspondence sent to facilities to ensure proper documentation of the violations.*
- 2. Supervisors and managers must review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.*
- 3. Staff are trained regarding proper compliance evaluation determinations.*
- 4. Staff are trained in the HPV and FRV policies, including the requirement to notify facilities of HPVs within 45 days of discovery.*

The Air Program conducted individual training on FRV and HPV policies with all relevant staff members. In addition, the Program is developing training materials to present to all compliance and enforcement staff, including regional office inspectors, during a scheduled training event this coming June.

Noted. EPA acknowledges MDNR's above listed steps to ensure the appropriate classification of all CAA violations. These activities are aligned with the spirit of the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

No changes to the report have been made in response to the information provided.

EPA further expressed concern about the Air Program's use of separate databases to track violations. The databases that the Air Program use are important communication tools between the Air Program, the Department's Regional Offices, and other programs within the Division of Environmental Quality. They allow program and regional staff to view compliance and enforcement data across the programs and across the state. In addition, the Air Program uses these internal databases to generate reports regarding inspection and enforcement activities to share with the public, stakeholders, and the Missouri Air Conservation Commission. EPA's ECHO and ICIS-Air databases do not have the tools we need to fulfill these functions and are not broadly available to Department staff. While having duplicate databases may be seen as inefficient, the important outcome here is that the correct information is entered into EPA's

national tracking system. We are committed to ensuring that all relevant information is properly submitted by the Air Program.

Complete and accurate data are vital to our understanding of current air quality conditions in our states, and critical to our effective planning for the future. In an era of access constraints and dwindling resources, data that give an accurate picture of the conditions in our states are crucial in shaping our work, present and future.

EPA does not prevent the use of multiple internal databases to track and present CAA compliance and enforcement information. Through discussions with technical staff and review of the internal and external databases, EPA concluded that data inaccuracies and discrepancy issues identified in the national public facing database, in part, likely stem from the duplication of effort inherent in dual tracking systems.

A key program expectation is that of ensuring the public facing data is accurate and complete. As articulated in EPA's September 2014 Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources (FRV guidance), a fundamental principle of effective compliance monitoring programs is having a complete and accurate inventory of sources with timely information on potential compliance problems. Reporting violations of the CAA in a national data system is critical at the federal, state, and local levels; and vital to the communities we serve. While our ultimate purview is the national database, EPA views the existence of multiple internal state databases as a potential roadblock to accurate reporting to our public facing systems.

Finally, EPA noted that the Department is using a unique category of compliance in the Air Program. While we understand EPA's concern with national consistency, the Department believes that the use of "unsatisfactory finding" letters is consistent with EPA's September 2014 memorandum regarding Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources. In that memorandum, EPA details that formal notice of a FRV or potential FRV to a source may be provided in a variety of ways:

*For example, such formal notice **may** be a Notice of Violation (NOV), Notice to Correct (NTC), Notice of Opportunity to Correct (NOC), Notice to Comply (NTC), or Notice of Noncompliance (NON). **Regardless of the name of the formal notice of violation**, if the purpose of the formal notice is to notify a source of an FRV, it is to be reported to ICIS-Air. (Emphasis added). As the attached policy excerpt shows, the use of an "unsatisfactory finding" letter is to formally notify a source of a compliance issue and the requirement to take necessary action to resolve the compliance issue. Therefore, we believe that issuing a notice of "unsatisfactory finding" and reporting these letters to ICIS-Air achieves the desired outcome of formally notifying a source of a FRV or potential FRV.*

The SRF review comparing the national database with the state files during the SRF review demonstrated the state is not following the national guidance and expected procedures for elements of compliance determinations. EPA reiterates the draft report in stating here that the state's facility files demonstrate MDNR processes for evaluating violations, reporting violations, tracking violations, and ensuring return to compliance fall outside national expectations, guidance and practices.

Regarding the issue of the unique category of violation created by MDNR (i.e., **Unsatisfactory Findings – No Response Required** letters), the state has misinterpreted the FRV guidance, which does not allow for the creation of a unique category of compliance determination. There is no flexibility in the guidance to create a unique type of enforcement category for violations that require facility responses, federal reporting and tracking. No flexibility exists in the national program to take an alternate path with violations in terms of follow-up and return to compliance. It is not the title of the notice at issue, it is the content of the notice and absence of a required facility response that deviates from the national expectations. It is not the name of the notice that is in question, it is the use of a unique type of notice that is not recorded and tracked in the national data base for public awareness that is at issue. The unique notices fail to meet national expectations in the following areas: violation reporting, tracking, and return to compliance; as outlined in the FRV guidance.

As discussed in greater detail below, MDNR's FRV and HPV discovery rate data in the national data system (Metrics 7a1 and 8a) in FFY18 was zero; no Federally Reportable or High Priority violators were identified to the public in data reports to communities in Missouri. The SRF review of a representative set of files reveal that there were facilities that violated the CAA (per HPV and FRV guidances) in FFY18, violations which require federal reporting, responses, tracking and return to compliance.

The lack of public notice and access to a broader range of information on the violations and air pollution that affect communities is a key issue. The program staff skill in identifying and correcting violation cannot be evaluated when the process and data availability deviate from national expectations. The need and emphasis on this reporting in the national system is emphasized in the national FRV guidance as follows, "Reporting of violations of the CAA in the national air compliance and enforcement data system, ICIS-Air (successor to AFS), is **critical for national program management and oversight as well as for transparency and public access purposes.**"

EPA issued the September 2014 FRV guidance because routine State Review Framework (SRF) evaluations confirmed inconsistent and under-reporting of violations by states. The final SRF report includes the statement that, for facilities where file documentation demonstrates FRV and HPV violations were discovered and not classified appropriately, MDNR tracked these violations on a separate internal spreadsheet; these data were not entered and tracked in national databases.

As a means of addressing these findings, EPA has added the following amended recommendations in the final SRF report, aimed at strengthening our communication on these issues along with MDNR's program success in this area:

- EPA will provide training on FRV and HPV policies.
- EPA and MDNR will review and discuss all MO CAA violations, FRV and HPV actions on a bi-weekly frequency during state and federal compliance/enforcement calls.
- EPA and MDNR will implement a shared facility *Compliance Determination OneDrive* (or similar electronic sharing mechanism) hub to facilitate transparent shared documentation of all enforcement determinations in the state, as compared to the national policies, for each facility inspected.

- EPA will provide a fillable form (i.e., *Compliance Determination Form*) for MDNR to document compliance/enforcement decisions for the purpose of streamlining and communicating compliance determinations.
- *Compliance Determination Forms* will require report out of the following:
 - Violations found in each inspection, with an emphasis on FRV/HPV criteria;
 - A comparison of each violation with a comprehensive list of all potential FRV and HPV violations;
 - Documentation of required follow-up corrective actions, including timeline to completion.
- All facility *Compliance Determination Documents* will be discussed on bi-weekly calls.
- Data pulls from the national database will be discussed on monthly calls.

Following one year of implementing the training, Compliance Determination Forms, and joint enforcement calls, EPA will conduct a partial, focused SRF to evaluate progress on metrics 7, 8 and 13.

Finding 4-1: Area for Improvement. Data metrics 10a - Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place, 10b - Percent of HPVs that have been addressed or removed consistent with the HPV Policy, 14 - HPV case development and resolution timeline in place when required that contains required policy elements, and 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.

***Summary:* The Air Program does not meet the objectives of the HPV policy in terms of enforcement responses, compliance schedules, timeliness, and return to compliance.**

MDNR Comment: Without knowing in which files EPA found deficiencies, it is impossible for the state to respond specifically as to the accuracy of this finding.

EPA RESPONSE: EPA transmitted the facility file selection list for review on May 20, 2019. Additionally, EPA forwarded the file selection list prior to the entrance interview in June of 2019. Considerable time, effort, and discussions among EPA and MDNR staff were devoted to selecting the facility files.

There may be cases in which the violation was resolved through a non-formal process that did not require case development or a resolution timeline.

The method of addressing an HPV or FRV violations through a “non-formal process” is antithetical to the required formal procedures for addressing these high priority or federally reportable violations. Non-formal processes are outside national guidance, expectations and acceptable practices for states authorized to address and correct stationary source CAA program violations. The HPV classification is, by definition, a formal process, requiring formal case development, as well as resolution in a timely manner. To resolve HPVs in an informal manner,

without documentation, reporting and tracking of the resolution, is a deviation from national program requirements.

In other cases, those mechanisms may have been developed but, consistent with past practice, were not documented in the paper file. In order to provide a thorough response, it is necessary to know which files EPA reviewed.

A key overarching finding for the round 4 SRF review is past practices of not documenting violations, timelines and resolutions in the paper files does not serve to inform EPA and the public of any actions the state has taken in implementing and enforcing the CAA program.

Further, the report notes with regard to metrics 10B and 14 that “the low sample population size of HPV facilities reviewed from multiple previous years does not offer a reliable picture of the state’s performance and success.” The report also notes that “the relatively small sample size diminishes the confidence in these results.” Given these limitations, the Department requests that EPA withdraw these findings from the final report or provide a determination of “Inconclusive,” rather than have the record reflect a performance result that is not well-documented. The Department also requests that the sample size used for metrics 10b and 9a be re-considered in the same light.

As was discussed with MDNR staff prior to the file review, the sample population size for the review period is problematic for a number of reasons. The state Data Metric Analysis performed on the 2018 frozen data prior to the formal SRF file review (transmitted to MDNR via email on May 20, 2019) recorded MDNR’s FRV and HPV discovery rates are 0% and 0%, well below the national averages of 7.8% and 2.5%, respectively. In order to review the aspects of HPV case timeliness, development, and resolution captured by SRF metrics 9a, 10a, 10b, and 14, the SRF process provides for an extended review period to previous years in order to identify facilities and gain a broader understanding of program performance in these metrics for the time period since the Round 3 review of the data. When HPVs are not reported, EPA looks to previous years to provide recommendations for strengthening MDNRs discovery, timeliness and corrective actions for HPV and FRVs.

EPA notes the absence of HPVs and FRVs for the 2018 review period can likely be attributed to one of two factors, a) data and reporting problems; or b) the potential (as discussed above) for inaccurate compliance determinations. Our review of the files did conclude that there are high priority violators in the state, as defined in the HPV policy; and the state is not categorizing and following up on HPVs per national expectations.

EPA is confident in the essence of the conclusions drawn from the data reviewed; however to clarify the findings, the report has been amended as follows, “... the absence of HPV facilities discovered by MDNR during the 2018 review period was addressed by widening the lens of review of the state program in this area low sample population size of HPV facilities reviewed from to multiple previous years. This action was taken in order to evaluate the state program’s progress in these metrics since the Round 3 report findings were issued, as a means to measure do not offer a reliable picture (and percentage) of the state’s performance and success in these areas. As with all metries, sample size must be considered in interpreting the results listed below. When conducting research, quality sampling may be characterized by the number and selection of subjects or observations. Obtaining a sample size that is appropriate in both regards is critical

~~for many reasons. Most importantly, a large sample size is more representative of the population, limiting the influence of outliers or extreme observations. Regarding these two metrics, the relatively small sample size diminishes the confidence in these results.~~ Region 7 also recognizes that an average quantitative metric over several years of the state's performance in these areas may be applied to the years outside the review period as a means of reaching broad overarching conclusions for strengthening performance in this area. ~~dilute the conclusions that can be drawn from the percentages.~~

The Department nevertheless recognizes the importance of addressing and/or removing HPVs, consistent with EPA's HPV policy, and ensuring that these efforts are documented. We have begun immediate corrective actions. Specifically:

1. Procedures now require staff to develop a resolution time frame for cases that may take more than 180 days to resolve, and share that with the Compliance and Enforcement Section Chief.

2. Procedures now require the Compliance and Enforcement Section Chief share a resolution time frame with appropriate EPA staff for any cases that may take more than 180 days to resolve.

3. Procedures now require HPVs to be addressed or removed consistent with the HPV policy.

4. Staff are trained regarding formal enforcement responses that include required corrective actions that will return the facility to compliance in a specified time frame.

5. Staff are trained regarding timely HPV case development and resolution.

6. Procedures now require staff to identify compliance issues noted in inspection reports and correspondence to facilities as FRVs and HPVs, if the issues fall into these categories of violation, to ensure proper documentation of the issues.

7. Procedures now require supervisors and managers to review documentation of compliance issues to ensure staff determinations are accurate and follow the FRV and HPV policies.

8. The Air Program is developing training material to present to Compliance and Enforcement staff, including regional office inspectors, during a scheduled training event in June 2020.

EPA acknowledges MDNR's initial steps to address Data metrics 9a, 10a, 10b, and 14. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

Again, the Department believes that this finding does not reflect any failure by the Air Program to evaluate compliance, document violations, or work with facilities to correct violations, regardless of FRV or HPV status, during the time period evaluated. The four attached reports illustrate the successful efforts by the Department during FFY2017 and FFY2018 to address FRVs through compliance assistance and through referrals and orders.

See EPA Response in Finding 3.1

No changes have been made in the final report in response to this comment.

The Air Program will document updated processes regarding this issue and include them in SOPs, which we will provide to EPA Region 7 within 60 days of completion of the SRF Final Report. The submittal will also contain a detailed description of the tracking system we use for HPV enforcement cases. Air Program staff will discuss the progress of HPV enforcement cases, including any foreseeable delays in case development and resolution of cases, during coordination calls with EPA Region 7 staff.

Noted.

Finding 5-1: Area for Improvement. Data metrics 11a - Penalty calculations reviewed that document gravity and economic benefit and 12b - Penalties collected

Summary: Penalty calculation documentation did not account for economic benefit. Some files did not include documentation that penalties were collected.

MDNR Comment: Without knowing in which files EPA found deficiencies, we cannot provide a detailed response. We request additional information on the specific files regarding missing penalty documentation so we can ensure the official records are complete. While some of the files that EPA reviewed apparently did not include documentation that penalties were collected, the Department did in fact collect all penalties assessed, or referred cases to the Attorney General's Office for collection if the responsible party failed to pay the penalty.

EPA RESPONSE: EPA transmitted the facility file selection list to MDNR on May 20, 2019, including the files reviewed for penalty assessment and collection.

The Air Program will follow HPV guidance and state rule 10 CSR 10-6.230 "Administrative Penalties" in regards to the use of an economic benefit penalty where appropriate. In addition, the Air Program has amended its penalty policy and worksheet which includes both gravity and economic benefit components, and will submit a copy of it within 60 days of completion of the SRF Final Report. The SOPs discussed above will include the requirement to file appropriate documentation indicating payment of the penalty, including a copy of the check with the routing number and account number redacted, or other appropriate documentation.

Noted. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

Finding 5-2: Area for Attention. Data metric 12a - Documentation of rationale for difference between initial penalty calculation and final penalty.

Summary: Documentation of the difference between initial penalty calculation and final penalty was present and followed policy in most but not all files.

MDNR Comment: The Air Program is revising procedures to document the rationale for differences between the initial penalty calculation and final penalty calculation. We will include this requirement in our penalty policy and worksheet, which we will submit to EPA within 60 days of completion of the SRF Final Report.

EPA RESPONSE: Noted. These activities are aligned with the corrective actions outlined in the draft SRF report and will be evaluated in accordance with the criteria listed in the final report for close-out of each recommendation. We look forward to reviewing the progress MDNR has made following issuance of the final report.

MDNR Conclusion: We appreciate EPA's consideration of our responses. We want to stress again that Air Program staff and the Department's regional office inspectors effectively evaluated compliance, documented violations, and worked with facilities to correct violations during the time period reviewed, and continue to do so.

We appreciate MDNRs thoughtful responses to the draft SRF report. We place a high value on our continued strong partnership and mutual commitment to open communication as we work together toward resolution of the issues identified during the Round 4 SRF review process. We are confident the path outlined in the final report will strengthen our mutual efforts of protection of human health and the environment.