

**2007**

**STATE REVIEW FRAMEWORK REPORT  
FOR THE STATE OF CALIFORNIA  
CLEAN WATER ACT COMPLIANCE AND ENFORCEMENT ACTIVITIES**



**January 25, 2008**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX - PACIFIC SOUTHWEST REGION  
Clean Water Act Compliance Office  
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San Francisco, CA 94105**

## EPA'S STATE REVIEW FRAMEWORK (SRF) REPORT STATE OF CALIFORNIA

**Media Program Evaluated:** Clean Water Act Compliance and Enforcement Activities

**Review Period:** Inspections: July 1, 2005 - June 30, 2006

Other activities: October 1, 2005 - September 30, 2006

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### 1.0 Executive Summary

In the State of California, nine Regional Water Quality Control Boards (“RWQCBs”) administer the major water quality regulatory functions by watershed in partnership with the State Water Resources Control Board. The enforcement and compliance work across all RWQCBs is heavily influenced by the California mandatory minimum penalty statute, the California Toxics Rule, and statewide policies such as monthly minimum self-monitoring. The work is also greatly affected by the complexity of the permits which often incorporate limits for nutrients, salts, pesticides, and other non-conventional pollutants, based on difficult considerations such as toxicity, reclaim, antidegradation, or TMDLs. Moreover, there are significant differences in the program performance across the state that are reflective of the fundamental differences in the RWQCBs themselves, in how they are organized, their constituencies, their capabilities, and their water quality objectives.

#### **Inspections** - Excellent performance in FY06

- Inspection coverage exceeded national averages and largely met all inspection targets and commitments: 86% (208 of 243) of NPDES majors, 23% (97 of 427) of NPDES minors, 80% (76 of 96) of pretreatment programs, and 9% (~2,600 of 29,000) of active stormwater permittees, as well as 92% (24 of 26) of MS4 Phase I programs since start-up.
- Inspection reports properly document inspection findings and violations.
- The RWQCBs involved in this review complete rigorous review of all DMRs.
- RWQCB fact sheets are uniformly very informative and comprehensive, providing the documentation for the permit conditions based on the permit applications, pre-permit inspections, and compliance actions.
- Most inspection reports were completed in a timely manner, although some State contractor reports were delayed as protocols were improved.
- Good follow-up on most inspections. NOVs were issued with or followed 40% (~1100 of 2600) of stormwater inspections, 20% (68 of 305) of the NPDES and MS4 inspections, but less than 10% (6 of 76) of the pretreatment inspections.
- A State contractor completed a third of the NPDES inspections and nearly all pretreatment and MS4 audits and inspections.

#### **Enforcement** - Highly effective in FY06

- Significant non-compliance rates (10%) are much lower than the national average (19%).
- All non-penalty enforcement actions clearly set compliance deadline requirements.
- The RWQCBs rigorously collect penalties for past violations with penalty actions accounting for 80% (101 of 125) formal FY06 enforcement actions.



- Single event violations such as sewer overflows, uncontrolled stormwater discharges, and unauthorized Concentrated Animal Feeding Operations (CAFO) discharges are properly tracked in the State's CIWQS database and addressed with appropriate enforcement.
- Total penalties assessed and received exceed \$5 million per year.
- The animal feedlot initiative, involving district attorneys has been very effective.
- There were 12% (33 of 264) different NPDES majors listed in significant non-compliance. In any particular quarter, the significant non-compliance rate did not exceed 6% (16 of 264). There were 4% (10 of 264) of the NPDES majors listed in significant non-compliance for two consecutive quarters without resolution.
- EPA generates the QNCR reports for the State of California.
- There were few (15) formal enforcement orders, either CDOs or TSOs. A quarter of the facilities in significant non-compliance (9 of 33) did not receive formal enforcement with enforceable time schedules within two quarters.

**Data Management** - Mixed quality. The State's data system is in transition and needs improvement to facilitate complete data transfer to EPA's national database.

- PCS data for major facility permits and Discharge Monitoring Report (DMR) data is complete and accurate.
- PCS data for inspections and enforcement are incomplete, but the data that have been entered are accurate.
- The State of California is responsible for managing the Permits and Compliance System (PCS), EPA's national database for the Clean Water Act NPDES program. California also operates its CIWQS database to store information about its NPDES and groundwater protection programs. The State has not devised an effective mechanism for transferring data from CIWQS to PCS. To make up for this shortfall, a State contractor, working with State staff, is coding permits and entering DMRs for NPDES major facilities into PCS for the State. Entry of inspections and enforcement data to PCS, however, is more limited resulting in data gaps for the period examined in this review.
- Although there are problems with the completeness and accuracy of data in CIWQS, the State relies more on CIWQS than PCS to manage its NPDES program. This is because, in part, CIWQS is intended to serve the broader scope of California's NPDES and groundwater protection programs. For example, CIWQS tracks all effluent monitoring data, a function needed to implement the Mandatory Minimum Penalty program.
- During 2007, EPA and California collaborated to enter missing inspection and enforcement data into PCS. The State contractor is reconciling CIWQS data with PCS in a statewide data verification sweep through each of the RWQCBs, an effort which should be completed by the end of the year.
- Pretreatment, CAFO, and stormwater inspection and enforcement information is not entered into PCS at all. The State's contractor has begun coding minor facility permits in PCS and California will be prepared to enter minor facility DMRs in PCS by 2009.
- The Regional Boards visited during this review successfully log and track inspections, enforcement, permits, and self-monitoring reports (a more detailed report than EPA's DMR) into CIWQS. The completeness of CIWQS data among the other Regional Boards, however, is mixed. Although some Regional Boards are using CIWQS effectively, the State has not been able to fully utilize the database to generate reliable statewide information about its compliance and enforcement programs.
- California has mounted an effort to improve the design, management and use of CIWQS.



## 2.0 Background

The State of California divides the water quality regulatory work by watersheds into nine semi-autonomous Regional Water Quality Control Boards ("RWQCBs"), who function in partnership with the State Water Resources Control Board. Each RWQCB consists of Governor appointed board members and a regulatory office headed by an Executive Officer. Each individual RWQCB has the responsibility to issue permits, conduct inspections, issue administrative enforcement actions, and refer judicial enforcement actions to the State Attorney General. Permits and administrative enforcement orders are issued by the Boards at public hearings, typically held monthly. The RWQCBs regulate all aspects of the NPDES program including pretreatment, stormwater, SSO/CSOs, animal feed operations, non-point source, watershed management, water quality certification, basin planning, TMDLs development, as well as State-mandated non-NPDES programs for irrigated lands, discharges to ground waters, site clean-ups, and septic systems.

This review of the State of California involved statewide performance statistics drawn from PCS and the State's CIWQS database, statewide data verification by the State's contractor, and on-site file reviews and data verification for the regulatory work performed by the two largest RWQCBs: the Los Angeles RWQCB and the Central Valley RWQCB.

## 2.1 Source Inventory

Statewide - In FY06, the inventory of dischargers permitted by the State of California comprised 243 NPDES major facilities, 427 NPDES minors, 26 municipal stormwater programs covering 300 co-permittees, general stormwater permits covering 9,538 industrial facilities and 19,533 construction sites, and thousands of other facilities under other Waste Discharge Requirements. Statewide statistics for the storm water inventories and enforcement actions were taken from the State of California's CIWQS database and not from PCS. See Section 2.7 for a discussion of database reconciliation.

FY06 Inventory	Summary of PCS and CIWQS Database Statistics							
	Permits	Inspxns	Notices*	TSOs	CAOs	CDOs	ACLCs	Judicial
NPDES Majors	243	208	16	5	1	3	37	2
NPDES Minors	427	97	36	4	0	3	23	0
Construct Stormwater	19533	2600	96	0	2	0	16	1
Industrial Stormwater	9538		1031	0	3	0	25	0
Pretreatment Programs	96	76	6	0	2	0	0	0
MS4 Phase I Co-permit	300	0	16	0	1	0	0	0
Animal Feedlots	?	?	0	0	0	0	0	13
Groundwater & Others	-	-	331	0	24	8	15	-
Totals	-	-	1532	9	33	14	116	16

\* Notices of Violations, Notices of Non-Compliance, Notices to Comply, etc.

Los Angeles RWQCB - The Los Angeles Region is heavily urbanized and industrial, with two of the four largest POTWs in the nation, some farm and arid forest lands, and extensive



coastal watersheds and beaches. In FY06, the inventory of dischargers permitted by the Los Angeles RWQCB comprised 51 NPDES major facilities, 86 NPDES minors, 3 MS4 municipal stormwater programs covering 95 cities and 2 counties, and a number of general permits including active stormwater permits covering 2,913 industrial facilities and 2,750 construction sites. See [www.swrcb.ca.gov/rwqcb4/Reg4.pdf](http://www.swrcb.ca.gov/rwqcb4/Reg4.pdf)

Central Valley RWQCB – The Central Valley Region encompasses 40% of the State's land area, with much farmland, national forests, and park lands, and with both expanding urban areas and small mountain and farming communities. Central Valley waterways supply over half of the state's water supply. In FY06, the inventory of dischargers permitted by the Central Valley RWQCB comprised 54 NPDES major facilities, 162 NPDES minors, 7 MS4 Phase I municipal stormwater programs with 22 co-permittees including the California Department of Transportation, 56 Phase II municipal stormwater programs, general stormwater permits covering 2,000 industrial facilities and 5,500 construction sites, general CAFO permits covering 1,500 dairies and 400+ other feedlots, and thousands of entities under the Irrigated Lands Program. See [www.swrcb.ca.gov/rwqcb5/board\\_information/Overview.html](http://www.swrcb.ca.gov/rwqcb5/board_information/Overview.html)

## 2.2 Quarterly Noncompliance Report Summary

There were 12% (33 of 264) of the NPDES majors listed in significant non-compliance in the FY06 Quarterly Noncompliance Reports ("QNCRs"). In any particular quarter, the significant non-compliance rate did not exceed 6% (16 of 264). Of those listed in FY06, less than a third (9 of 33), comprising 4% (10 of 264) of all majors, were listed for two consecutive quarters without resolution.

California NPDES Majors on the FY06 QNCRs			
Oct-Dec 2005	Jan-Mar 2006	Apr-Jun 2006	Jul-Sep 2006
American Canyon	American Canyon	American Canyon	Calipatria
Auburn	Arcata	Camarillo	Camarillo
Camarillo	Camarillo	Eastern MWD	Irvine Ranch
Crescent City	Collins Pine	Inland Empire	LACSD Los Coyotes
LACSD San Jose	Crescent City	Irvine Ranch	LACSD San Jose
Los Angeles DWP	Galt	LACSD Pomona	Lompoc
Ormat Nevada	McKinleyville	Los Angeles DWP	Manteca
Rio Dell	Ormat Nevada	McKinleyville	Paso Robles
Yucaipa Valley	Reliant Ormond	Novato	Rialto
	Sonoma Valley	Ormat Nevada	Riverside
	South Marin	Riverside	Sausalito-Marin
	Turlock	Simi Valley	Simi Valley
	Yucaipa Valley	Sonoma Valley	Yucaipa Valley
		Ventura	
		Western Riverside	
		Yucaipa Valley	
SNC Rate - 3%	SNC Rate - 5%	SNC Rate - 6%	SNC Rate - 5%



See Sections 4.2, 4.5, and 4.7 for examples of file-reviewed facilities listed in significant non-compliance in FY06.

## **2.3 Types of State Enforcement Actions / Definitions and Acronyms**

Each RWQCB has the authority to issue the following types of enforcement orders and actions:

ACLC	Administrative Civil Liability Complaint – An administrative penalty first issued by the Executive Officers as a proposed penalty for past violations and then later adopted by the Boards as final
TSO	Time Schedule Order – An administrative order adopted by the Boards to establish a compliance time schedule that may include interim limits
NOV	Notice of Violation / Notice of Non-Compliance – An administrative action issued by the Executive Officers to formally cite violations
WDRs	Waste Discharge Requirements – An administrative permit adopted by the Boards to set discharge, operating, and monitoring requirements. A subset of WDRs, for discharges to surface water, are NPDES permits.
CDO	Cease and Desist Order – An administrative order adopted by the Boards to set a compliance deadline and other requirements including interim limits, compliance schedules, and preventive/remedial action schedules
CAO	Clean-up and Abatement Order – An administrative order to set mitigation requirements, either adopted by the Boards or issued by the Executive Officers when quick response is warranted
MMP	Mandatory Minimum Penalty – Statutory minimum penalties for certain past violations of effluent limits in WDRs, TSOs and CDOs
SEP	Supplemental Environmental Project – Penalties applied to projects generally unrelated to a return to compliance
13267	Section 13267 Orders – An administrative order issued by the Executive Officers to require technical reports or monitoring results

Other definitions and acronyms:

SNC	Significant Non-Compliance – National definition established by Federal rule of the frequency and severity of violations considered significant
QNCR	Quarterly Non-Compliance Report – A report issued each quarter by State that lists all NPDES major facilities qualifying as violators in SNC
BMPs	Best Management Practices
CTR	California Toxics Rule - Toxicity-based water quality standards
DMRs	Discharge Monitoring Reports - Facility self-monitoring reports
CIWQS	California Integrated Water Quality System - The State of California's data management system



## 2.4 Organizational Structure – Los Angeles RWQCB

The Los Angeles RWQCB divides the water quality regulatory work by function into sections. Each section generates two separate sets of files for each facility, generally referred to as Case files (permits) or Compliance Inspections files (compliance and monitoring). See [www.swrcb.ca.gov/rwqcb4/html/programs/programs.html](http://www.swrcb.ca.gov/rwqcb4/html/programs/programs.html)

NPDES Permits – The Watershed Regulatory Section conducts pre-permitting inspections, coordinates pretreatment, reviews permit applications, writes permits, and issues TSOs to establish interim limits and time schedules for new water quality standards.

NPDES Compliance – The Surface Water Enforcement Section reviews DMRs, conducts inspections, provides data management, and administers enforcement. The Compliance section maintains a priority list for enforcement updated each month.

Stormwater – The Stormwater functions are divided between a Stormwater Permitting Section and a Stormwater Compliance and Enforcement Section. The MS4 functions are consolidated into the Municipal/Cities Section.

Groundwater – "Non-Title 15" facilities, which do not discharge to surface waters, were not included in this review, although the Los Angeles RWQCB deploys nearly as many staff in the Groundwater Division as it does in the Surface Water Division.

## 2.5 Organizational Structure – Central Valley RWQCB

The Central Valley RWQCB divides the regulatory work first by subregion and then by program. The Central Valley RWQCB staffs three subregional offices -- Fresno in the south, Redding in the north, and Sacramento in the middle. The three subregional offices are under executive management in Sacramento which reports to the Board. Each subregional office maintains separate staff, keeps separate records, and is organized differently. This review was limited to the Sacramento office.

The Sacramento Office is divided into sections (NPDES, ag land, stormwater, ground water, CAFOs, and others). Each section covers the range of programmatic functions (permitting, inspections, data management, compliance, and enforcement). Within the NPDES Section, compliance and enforcement are separate functions currently consolidated into one section. Two sets of files are generated per facility, DSMR files (monitoring), and case files (everything else). See [www.swrcb.ca.gov/rwqcb5/organizational\\_chart/index.html](http://www.swrcb.ca.gov/rwqcb5/organizational_chart/index.html)

NPDES Permits – Two separate Watersheds Units of the Sacramento Office write permits, and issue CDOs to address permit violations and TSOs to establish interim limits and time schedules for new water quality standards. The Fresno and Redding Offices each handle their surface water quality functions (NPDES, stormwater, CAFOs) in one unit. Some of the pretreatment functions are handled by the staff permit writers and a State contractor but not all pretreatment functions are assigned and fulfilled.



NPDES Compliance – The responsibility for compliance work used to be assigned to individual Area Engineers in various units. A new NPDES Compliance and Enforcement Unit, created in 2006, reviews incoming DMRs for violations, stamps them as reviewed, and logs in the dates of receipt and review. This unit now has gained the capability to prepare the case files for the MMPs and to pursue some non-MMP enforcement.

Stormwater – The Stormwater Unit is responsible for the permitting and enforcement of the general industrial, general construction, and MS4 permits.

Animal Feedlots – Animal feed lots operated under a regulatory waiver until 2002. On May 3, 2007, the Central Valley RWQCB adopted a Non-TITLE 15 general permit (WDRs) that prohibits discharges to surface waters and will cover the majority of dairies within the Central Valley. The Central Valley RWQCB is drafting another general NPDES permit for dairies with histories of surface water discharges, to be applied to individual dairies under separate RWQCB review. Over 200 dairies also filed for coverage under the general industrial storm-water permit. A task force involving county district attorneys has taken the enforcement responsibility for feedlot discharges to surface waters, with criminal prosecutions primarily under California Fish and Game codes. Since 1998, there have been 146 district attorney settlements for a total of \$5,847,000 in penalties. Compliance work in the drier areas of the Central Valley primarily involves technical review for run-off capture and capacity assurance.

Groundwater – Much of the Central Valley RWQCB water quality regulatory work involves discharges to land outside the jurisdiction of the Clean Water Act. The Sacramento Office operates three Non-TITLE 15 sections covering ground water by program for irrigated agriculture lands, ground water site clean-up, underground storage tanks, and landfills. Nevertheless, some of these Non-TITLE 15 facilities can affect surface waters through wastewater spill or storm water runoff.

Irrigated Lands - The Irrigated Lands Regulatory Program was established in 2002 upon termination of a long-standing waiver for irrigated land dischargers from regulation. This program addresses the surface water quality issues associated with the irrigation and stormwater runoff from tens of thousands of farming operations located on over 5 million acres of irrigated lands.

## **2.6 Statewide Data Verification**

The State of California maintains its own data base separate from PCS. Since June 2005, the RWQCBs are using the California Integrated Water Quality System (“CIWQS”), which replaced the now decommissioned System for Water Information Management (“SWIM”). EPA Region 9 has undertaken two tasks, noted below, to ensure that the OTIS State Review Framework Results for California is complete and accurate.

CIWQS Data - On August 8, 2007, EPA Region 9 added 143 inspections and 587 enforcement actions recorded by the RWQCBs into CIWQS but not entered into PCS and thus not reflected in the OTIS SRF results report. These changes and verifications should be reflected



in the OTIS SRF results report by mid-September. One principal cause for the discrepancies is unentered or misentered NPDES permit numbers associated with the other data elements.

Contractor Verification - On August 14, 2007, the State's contractor began NPDES file reviews of all nine RWQCBs to retrieve all State compliance and enforcement actions since July 1, 2003 that had not yet been entered in PCS or CIWQS and further update the relevant data bases. These data verification reviews are expected to be completed in late-September. However, they are not expected to be captured by an OTIS data pull from PCS for incorporation into the SRF results report by September 28, 2007. This statewide data verification will substantially increase the numbers of inspections and enforcement actions captured in CIWQS, and thus the PCS system and the SRF results report. One principal cause for discrepancies arises from the relational nature of the CIWQS data base to discharger location and the faulty entering of data elements to alternate or wrong locations.

This review of the State of California does not reiterate the evaluation findings and recommendations regarding CIWQS in the July 2007 CIWQS Review Panel Study conducted by the Southern California Coastal Water Research Project, Technical Report 517.

See [www.sccwrp.org/pub/tech rpt.htm](http://www.sccwrp.org/pub/tech rpt.htm)

## 2.7 File Review Selection

Thirty-one files for 2005 and 2006 were reviewed, 15 from the Los Angeles RWQCB and 16 from the Sacramento Office of the Central Valley RWQCB. Nine others (primarily storm-water facilities) were also selected but did not have enough of a record to evaluate. Overall, the selected facilities were primarily those on the FY06 QNCRs, under enforcement in FY06, or with long-term compliance issues. The selected facilities also covered the various Clean Water Act programs. The list of the 31 selected facilities and the reasons for each selection follow below:

### Los Angeles RWQCB Facilities

Equilon, Mormon Island - NPDES industrial major, enforcement  
San Buenaventura, Ventura WRF - NPDES major, enforcement, pretreatment  
Ultramar, Wilmington - NPDES industrial minor  
Las Virgenes MWD, Tapia WRF - NPDES major, enforcement, pretreatment  
Reliant Energy - NPDES industrial major, QNCR  
Oxnard, Oxnard WWTP - NPDES major, pretreatment  
Camarillo San District, Camarillo WRP - NPDES major, QNCR, enforcement  
Fillmore, Fillmore WWTP - NPDES major, enforcement  
Los Angeles County San District, Valencia WWRP - NPDES major, enforcement  
Boeing, Santa Susana - NPDES industrial major, enforcement  
Ojai Valley San District, Ojai Valley WWTP - NPDES major, enforcement  
Universal Waste - industrial stormwater, enforcement  
California Sulphur, Wilmington - NPDES industrial minor  
Oxnard Water Division, Blending Station #3 - construction stormwater  
Los Angeles County San District, Manhattan Beach - SSO spill, enforcement



### Central Valley RWQCB Facilities

City of Modesto, Modesto WQCF - NPDES major, enforcement, pretreatment  
Nevada City Sanitation District, Cascade Shores WWTP - NPDES minor, enforcement  
City of Colfax, Colfax WWTP - NPDES minor, enforcement, long-term violations  
Proctor and Gamble, Proctor and Gamble WWTP - NPDES industrial minor, enforcement  
Aerojet-General, Groundwater Remediation - NPDES industrial major  
French Bar Bluffs LLC, French Bar Blue Development - construction stormwater, enforcement  
City of Tracy, Tracy WWTP - NPDES major, pretreatment, enforcement  
Linda City Water District, Linda City WWTP - NPDES major, enforcement  
El Dorado Irrigation District, Deer Creek WWTP - NPDES major, pretreatment  
Bear Valley Water District, Bear Valley WWTP - NPDES minor, enforcement  
DR Horton Western Pacific Series, Browne Valley - construction stormwater, enforcement  
Standard Pacific Homes, Portofino Subdivision - construction stormwater, enforcement  
PL Roseville LLC, Westpark - construction stormwater, enforcement  
Placer City Waste Management, Applegate WTF - SSO, enforcement  
Saint Gregory Olive Farm - spill, enforcement  
El Dorado Irrigation District, Rancho Ponderosa WWTP - SSO, enforcement

See Sections 4.0 through 4.15 and 5.0 through 5.16 of this report for the file review findings.

## **2.8 Data Review Participation**

Dates of Review:      July 9-11, 2007 - Los Angeles RWQCB  
                          August 14-16 and 20, 2007 - Central Valley RWQCB  
                          August 14-September 28, 2007 - Statewide Data Verification

### Review Participants

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## 3.0 SRF Review Elements

The State Review Framework involves the standard, nationwide review of state enforcement and compliance programs, using 12 defined elements, each one covering a separate metric. The State Review Framework also provides Element 13 to highlight individual state priorities, accomplishments, and best practices. The review findings for Elements 1 through 13 follow in sections 3.1 through 3.13 of this report.

### 3.1 Element 1 - Inspection Coverage

*The degree to which a state program has completed the universe of planned inspections.*

The State of California RWQCBs nearly met all FY06 inspection commitments from the State/EPA Performance Partnership Agreement (PPA), for NPDES majors (annual), NPDES minors (life-of-the-permit), stormwater sites (unspecified frequency), MS4 programs (unspecified frequency), and pretreatment programs (annual). Inspection coverage of stormwater sites approached the 10% goal proposed in EPA's draft Compliance Monitoring Strategy. A State contractor conducted over a third of the NPDES inspections primarily for the San Francisco RWQCB, the San Diego RWQCB, and the Sacramento Office of Central Valley RWQCB, as well as nearly all pretreatment inspections and audits. There were no MS4 program audits in FY06. However beginning in FY01, the contractor has conducted audits of ~120 of ~300 MS4 co-permittees. These audits covered at least one co-permittee from 24 of 26 Phase I MS4 programs in the State of California. These inspection coverage statistics are expected to further improve as the on-going data verification continues to capture completed inspections into PCS. See Section 2.6.

#### Review Findings

- Inspected 86% (208 of 243) of the NPDES majors (well over the national average).
- Inspected 23% (97 of 427) of the NPDES minors.
- Inspected 9% (2600 of 29000) of the facilities covered under the storm water permits.
- Conducted no audits of MS4 programs in FY06.
- Conducted either audits or inspections of 80% (76 of 96) of pretreatment programs.
- Also conducted a few other inspections (12 CSO/SSOs, 2 biosolids, 8 case support)

#### Recommendations

- None.

### 3.2 Element 2 - Identification of Violations

*The degree to which inspection reports and compliance reviews document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.*

The documentation of inspection findings was found to be more than sufficient to successfully identify violations. The documentation was not standardized across the



RWQCBs or the various water quality programs. Most notably, the report format depended on whether the author was a RWQCB inspector or a State contractor. All but one report included at least some narrative findings and most included photographs. The exception was the inspection report for Camarillo in FY06 which listed satisfactory/marginal/unsatisfactory ("S/M/U") ratings only. The contractor provided the reports in draft to be reviewed and issued by the RWQCB. The files for both the Los Angeles and Central Valley RWQCBs included positive documentation of DMR reviews. See Sections 4.0 and 5.0 of this report.

### **Review Findings**

- The permit fact sheets are uniformly well written and informative.
- All but one (20 of 21) inspection reports documented violations appropriately.
- Most (20 of 22) of the reviewed facility files included compliance inspection reports.
- Few (3 of 10) of the reviewed facility files included pretreatment reports. These pretreatment reports were completed but were not placed in the appropriate files.
- DMRs of nearly all (29 of 31) of the file-reviewed facilities were reviewed for violations in a timely manner with the review findings positively documented in the files.
- Positive documentation of the DMR reviews in the files by the Central Valley RWQCB did not begin until late FY06.

### **Recommendations**

- None.

### **3.3 Element 3 - Timely Completion of Inspection Reports**

*The degree to which inspection reports are completed in a timely manner, including the timely identification of violations.*

For the most part, the inspection reports for the file-reviewed facilities are completed and issued in a timely manner. The lone delays were caused by protracted reviews and repeated edits by the Central Valley RWQCB of reports completed by the State contractor on time. The creation of the NPDES Compliance and Enforcement Unit consolidated the inspection review responsibilities and alleviated the backlog. See Sections 4.0 and 5.0 of this report.

### **Review Findings**

- Most (19 of 22) compliance inspection reports for the file-reviewed facilities were completed and issued within 30 days.
- Few (3 of 10) of the file-reviewed facilities included pretreatment reports so timeliness cannot be evaluated.
- The delayed compliance inspection reports were drafted by the State contractor on time but held up for as much as a year by the Central Valley RWQCB for revision.

### **Recommendations**

- None.



### 3.4 Element 4 - Identification of Significant Non-Compliance

*The degree to which significant violations are accurately identified and reported to EPA national databases in a timely manner.*

The extensive and timely use of both Mandatory Minimum Penalties (MMPs) for past violations and Time Schedule Orders (TSOs) with interim limits for potential future violations results in a significant reduction in the percentage of facilities which would otherwise be listed on the QNCR, a percentage well below the national average. (EPA suspects that MMPs, which create an incentive for compliance, are partly responsible for improved discharge quality and resultant SNC reductions in California.) However, the nondiscretionary nature of the MMPs claims much of the resources allocated to enforcement, resulting in curtailment of the more resource-intensive forms of enforcement, such as CDOs with time schedules. As a result, while fewer facilities qualify for the QNCR, some remained unresolved in FY06. See Section 4.7 for an example of an unresolved facility.

The RWQCBs also (1) identify single-event violations such as SSOs, uncontrolled stormwater discharges, and CAFO spills, (2) capture these violations in the State's CIWQS database, and (3) respond with appropriate and timely enforcement. The RWQCBs do not enter the single-event violations into PCS. See Sections 4.12, 4.14, 4.15, and 5.6, 5.11, 5.12, 5.13, 5.14, 5.16, for examples of the State's handling of single-event violations.

#### Review Findings

- Just 10% of the major NPDES facilities were in SNC (half the FY06 national average).
- PCS included listings of only 3 single-event violations.
- SNC determinations were correct for all (15) file-reviewed major NPDES facilities.
- The FY06 QNCR reports, generated by EPA for the State of California, correctly captured all effluent limit significant noncompliance (SNC) for NPDES majors.

#### Recommendations

- The State Water Resources Control Board, Office of Enforcement, which is managing the Watch List, should also take the responsibility for generating the QNCR reports.
- Single-event violations should be tracked in PCS.

### 3.5 Element 5 - Injunctive Compliance Deadlines

*The degree to which state enforcement actions include required corrective actions to return facilities to compliance in a specific time.*

The RWQCBs include compliance deadline requirements to return violations to compliance in the State civil and criminal judicial settlements and in all but one of their non-penalty administrative enforcement actions (NOVs, CAOs, CDOs, TSOs, but not Section 13267s). CAOs, CDOs, and TSOs are considered formal enforcement actions. NOVs are considered informal actions because the violations of their compliance deadlines are not themselves a violation. Section 13267s are formal enforcement orders requesting information under penalty of perjury. These non-penalty administrative enforcement actions also usually



incorporate compliance time schedules and interim limits, if warranted for violations of first-time permit limits. The administrative penalty actions (ACLCs) issued as both MMPs and non-MMPs are for past violations and do not include compliance deadline requirements. TSOs are typically written by permit staff, sometimes without consultation with enforcement staff, and issued concurrently with the reissuance of NPDES permits to establish interim limits and compliance schedules for newly established permit limits. See Sections 4.0 and 5.0 of this report.

## Review Findings

- The enforcement history for all (24) of the file-reviewed facilities with violations included at least one NOV, CAO, CDO, or TSO.
- TSOs are usually issued concurrently with the reissuance of NPDES permits.
- The administrative actions clearly set forth compliance deadline requirements.
- There were very few (15) formal CDO or TSO enforcement orders.
- There were more ACLC penalty actions (101) than CAOs/CDOs/TSOs combined (24).
- Some violations have not yet been addressed (Modesto sewer spills, Fillmore). The Camarillo San District was in SNC for eight quarters before the RWQCB issued a TSO on April 2, 2007. See sections 4.7, 4.8, and 5.1 of this report.

## Recommendations

- Issuance of TSOs should be coordinated with enforcement staff to ensure establishment of expeditious compliance schedules.
- Issue compliance orders (CDOs or TSOs) concurrently with ACLCs for dischargers with continuing violations, especially SNC violations.
- Consider the trade off of MMPs versus compliance orders to match enforcement with water quality priorities.

### 3.6 Element 6 - Timely and Appropriate Enforcement

*The degree to which a state takes timely and appropriate enforcement actions, in accordance with specific media policy.*

The RWQCBs followed State statutes and guidelines, including the State Board's Enforcement Policy with escalating actions from NOVs through significant ACLCs or judicial complaints and settlements. However, MMPs have transformed the way most NPDES permit violations are resolved, through a two step process, with an informal administrative action (usually an NOV) informing the Permittee of the violation and requiring a return to compliance with a compliance schedule (but not necessarily resolving SNC status) followed by mandatory penalties. As a result, for NPDES permit violations, it is MMPs and not escalating enforcement that provides much of the motivation to resolve violations. The size of the MMPs are a function by the number of permit violations which itself determined by the number of pollutants in the permit, the frequency of monitoring, and the duration of non-compliance. In State FY06-07, California received \$5,606,043 in fines, penalties, and settlements, as well as supplemental environmental projects worth many millions of dollars.



For spills and other BMP permit violations, where MMPs do not apply, escalating enforcement involving multiple administrative orders and a potential penalty provide a more conventional return to compliance. For animal feedlot violations, the RWQCBs pursue different compliance and enforcement strategies. The Central Valley RWQCB regulates most animal feedlots as non-discharging facilities under WDRs, while the Santa Ana RWQCB has issued a general NPDES permit for the dairies in its region. Central Valley RWQCB inspectors participate in the Northern Dairy Task Force together with EPA and the California Department of Fish and Game. The Task Force conducts annual reconnaissance or on-site inspections of nearly all of the dairies in Stanislaus, San Joaquin and Merced Counties. The inspectors refer unauthorized discharge violations to the County District Attorneys for criminal prosecution. Since 1998, the district attorneys have obtained 146 settlements amounting to \$5,847,000 in penalties.

## **Review Findings**

- According to PCS, only 5% (14 of 264) of NPDES majors were in significant non-compliance and did not receive timely enforcement -- slightly less than the 8% national average but over the national goal of 2%.
- Most (19 of 24) of the file-reviewed facilities with violations were successfully returned to compliance through timely and appropriate enforcement.
- Only 2 of 3 file-reviewed SNC facilities received timely and appropriate enforcement before appearing as unresolved on the QNCR for a second consecutive quarter.
- The number of actual FY06 enforcement actions taken by the Regional Boards far exceeds the numbers entered into PCS.
- Administrative penalties for past violations accounted for 101 FY06 enforcement actions.
- Animal feedlots are regulated by State initiative in the Central Valley Regional Board under non-NPDES prohibitions against discharges to surface waters, as well as under NPDES permits throughout the State where discharges to surface waters occur.
- The Modesto sewer line spills have not been addressed by enforcement.
- Not all Camarillo effluent limit violations have been addressed by enforcement.
- Violations of Ventura's CTR-based limits for copper and nickel are unresolved.
- Not all Fillmore interim and permit limit violations have been addressed by enforcement.
- The pretreatment program submittal for the El Dorado Irrigation District is unapproved.

## **Recommendations**

- The RWQCBs should ensure that all facilities in significant non-compliance receive timely formal enforcement with enforceable time schedules (CDO, CAO or TSO).
- Ensure all enforcement actions are entered into State and Federal systems to better reflect the extent of enforcement work.
- Either each RWQCB or the SWRCB should develop the capability to perform pretreatment program approval and enforcement. An investment in pretreatment staffing expertise would help to ensure protection of POTWs, waters and biosolids quality.



### 3.7 Element 7 - Calculation of Penalties

*The degree to which a state includes both gravity and economic benefit calculations for all penalties using the BEN model or similar state model.*

The mandatory minimum penalty statute sets penalty amounts based on the number and duration of NPDES permit effluent violations. Because the penalty amounts are set by statute, the Regional Boards may not offer a penalty settlement at any amount but the mandatory minimum. As a result, it is not necessary to make gravity and economic benefit calculations for MMP penalty actions. Nevertheless, the on-going and nondiscretionary nature of the MMPs provides both a motivation to resolve violations and a strong deterrent against violation. For the small percentage of penalty actions that are non-MMP actions, the Regional Boards calculate a penalty based on statutory factors including gravity and economic benefit. File reviews of non-MMP ACLC penalties indicate that the Regional Boards do not always use the BEN model to make their economic benefit calculations, but instead can use other methods to estimate economic benefit.

#### Review Findings

- The RWQCBs rigorously collect penalties both in administrative and judicial actions.
- Penalties for past violations accounted for 101 of 125 formal FY06 enforcement actions.
- Only 30 of 101 ACLCs and 11 of 24 formal enforcement orders were entered into PCS.
- On average, annual totals for administrative penalties assessed and received are over \$5 million per year.
- For MMP penalties, the RWQCBs calculate penalties based on the State statutory requirements in the Migden legislation.
- For non-MMP penalties, the RWQCBs calculate penalties based on the gravity of the violations, economic benefit and other statutory factors. The RWQCBs, however, do not always use a BEN model for their economic benefit calculations.
- The majority (14 of 26) of enforcement histories for the file-reviewed facilities with violations include penalties for past violations.

#### Recommendations

- None.

### 3.8 Element 8 - Implementation of the State Penalty Policy

*The degree to which final enforcement actions collect appropriate economic benefit and gravity penalties in accordance with applicable penalty policies.*

While MMP penalty actions do not follow economic benefit and gravity policies, all penalty action do follow the applicable State penalty policies. The State penalty policy allows for the diversion of the entire penalty to a supplemental environmental project (SEP). The State's policy contrasts with EPA's penalty policy that establishes a cap on the amount of penalty that can be mitigated by a SEP. In practice, however, the Regional Boards usually collect a penalty payment to the State's Cleanup and Abatement Account and divert only a portion of



the penalty to SEPs. (See section 4 and 5 for descriptions of penalty cases examined in this review.)

### **Review Findings**

- The MMPs amounts are based on the number and type of violations. The RWQCBs have no discretion to negotiate a settlement amount which does not conform with the statutory requirements.
- The RWQCBs can apply the penalty amount to SEPs under a State SEP policy.

### **Recommendations**

- The State should consider revising its penalty policy to establish a cap on the amount of penalty that can be mitigated by a SEP.

## **3.9 Element 9 - Negotiated Enforcement Commitments**

*The degree to which negotiated enforcement commitments are met.*

The performance partnership agreement (PPA) for California essentially specifies compliance and enforcement goals equivalent to the national goals regarding NPDES inspection coverage (majors annually, minors once per 5 years), pretreatment inspection (annually) and audit coverage (once per 5 years), timely and appropriate enforcement to resolve SNC violations, enforcement response plans, penalty policy, and SEP policy. Data management commitments from the PPA include: development of an automated tool to automate review of SMRs, generation of the QNCR, and maintenance of the WENDB data elements in PCS (permit limits, DMRs, inspections, enforcement, etc.)

### **Review Findings**

- The RWQCBs largely have met the performance partnership agreement commitments for inspection coverage at NPDES majors, minors and pretreatment programs (see section 3.1).
- The RWQCBs did not take timely and appropriate enforcement against every SNC violator (see section 3.6).
- The State has not met all of it's PPA commitments for data management (see sections 3.10 through 3.12).

### **Recommendations**

- See recommendations in sections 3.1, 3.6 and 3.10 through 3.12.

## **3.10 Element 10 -Timely Reporting of Minimum Data Requirements**

*The degree to which the minimum data requirements are provided in a timely manner.*



Elements 10, 11 and 12 of the review examine the timeliness, accuracy and completeness of data in PCS, EPA's national database for the NPDES program. This section includes a description of the State Board's data management practices and EPA's over-arching recommendations. Specific findings related to data timeliness, accuracy and completeness are contained in sections 3.10, 3.11 and 3.12 respectively.

The national system of record for data on California NPDES permittees is the Permit Compliance System (PCS). As a State authorized for the NPDES program, and as required in the State/EPA Performance Partnership Agreement, it is California's responsibility to enter complete data into PCS.

The specific data required in PCS are spelled out in a list known as the Water Enforcement National Database (WENDB) group. California is not currently meeting the WENDB group goals for data entry. Although California has its own data system (CIWQS), it does not have a workable interface with PCS. As a result, what California data is entered into CIWQS by State Board and Regional Board staff and to PCS by EPA or the State Board with the assistance of a State contractor.

The State Board, using State contractors, is coding major facility permits and related DMRs in PCS. This data is timely, accurate and complete. The State Board uses a stand-alone system to track the receipt, non-receipt, and late submittal of DMRs. PCS cannot monitor the receipt of DMRs in California because California permits require varying DMR due dates. The State Board has begun coding minor facility permits in PCS and plans to begin processing minor facility DMRs in 2009.

Since 2005, when California turned off its legacy data system (SWIM), there has been no regular entry of State inspection and enforcement information to PCS. EPA has entered limited amounts of inspection and enforcement information in PCS including SNC related enforcement and inspections conducted by the State's contractor. In 2007, EPA and California mounted an effort to input missing inspections and enforcement data to PCS. This project is described in Section 2.6. EPA and the SWRCB are also implementing a new procedure, using a State contractor, to regularly enter new inspections and enforcement data into PCS.

EPA is replacing PCS with a new national database, known as the Integrated Compliance Information System-NPDES (ICIS-NPDES). The migration of California's NPDES data from PCS to ICIS-NPDES is currently scheduled for August, 2008. EPA, in conjunction with national state organizations (e.g. ECOS, ASWIPCA), is developing an ICS-NPDES Policy Statement which will define the specific required data elements for ICIS-NPDES. These are known as the Requisite ICIS-NPDES Data Elements (RIDE), and are more extensive than the required data elements in the WENDB group.

It is anticipated that the current PCS data entry approach, which uses a contractor to enter California NPDES data directly into PCS, will continue after the switch to the new Federal system, ICIS-NPDES, in August, 2008. California could take advantage of batch data entry to ICIS-NPDES from a State system, which will be available in 2009. However, without fundamental CIWQS system improvements and improved data quality, EPA will not be able to allow batch transfer from CIWQS into ICIS-NPDES. It appears likely California will con-



tinue to expend resources to enter data into two separate NPDES data systems, and struggle with the larger reliability and operational issues experienced by internal and external users.

### Review Findings

- The State Board continues to code NPDES major permits and enter DMR data in PCS in a timely manner.
- The SWRCB has begun to enter new inspection and enforcement order data into PCS.
- The SWRCB DMR tracking system is better suited than PCS to track the receipt of DMRs.

### Recommendations

- California should manage the NPDES program required data (WENDB group) in PCS.
- Pursuant to the pending ICIS-NPDES Policy Statement, California should prepare a transition plan documenting their plan and schedule for populating ICIS-NPDES with the RIDE. If a separate California database (e.g. CIWQS) is not capable of populating ICIS-NPDES with all RIDE, California will enter these data elements into ICIS-NPDES by other means, including, but not limited to manual data entry.
- Both before and after the transition to ICIS-NPDES, the State Board, Office of Enforcement should prepare the following routine compliance assurance reports based on data in PCS (or ICIS-NPDES): Quarterly Non-Compliance Report (QNCR), Watch List and Annual Non compliance Report for non-majors (ANCR).

#### 3.11 Element 11 - Accuracy of Minimum Data Requirements

*The degree to which the minimum data requirements are accurate.*

Permit limits and DMR data in PCS is accurate. Although not all inspection and enforcement actions are included in PCS, the data that has been entered is accurate. The formal enforcement actions are linked to violations.

The Regional Boards visited during this review successfully log and track inspections, enforcement, permits, and self-monitoring reports (a more detailed report than EPA's DMR) into CIWQS and had ready access to this data for managing their compliance and enforcement programs. These Boards, however, were not tracking pretreatment activities in CIWQS. The completeness of CIWQS data among the other Regional Boards, however, is mixed. Although some Regional Boards are using CIWQS effectively, the State has not been able to fully utilize the database to generate reliable statewide information about its compliance and enforcement programs.

### Review Findings

- Permit limits, DMR data, inspections and enforcement actions in PCS are accurate.
- The RWQCBs visited for this review were accurately tracking their enforcement and compliance activities through CIWQS.



- The RWQCBs do not track pretreatment activities through CIWQS. Some FY06 pretreatment inspections had not been entered in PCS at the time of the review, but the missing data is now being entered.

### **Recommendations**

- California should regularly enter all inspection and enforcement action data in PCS.
- California should improve the completeness and accuracy of data entered to CIWQS in order to facilitate the eventual batch loading of CIWQS data to PCS.

### **3.12 Element 12 - Completeness of Minimum Data Requirements**

*The degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.*

This section examines the completeness of several required data elements in PCS.

Facility Universe - PCS contains a complete and accurate inventory of major and minor permittees. Although PCS includes each of the general and MS4 storm water permits, it does not contain an inventory of the general permit enrollees or the individual co-permittees under the MS4 permits.

Major Permits and DMRs - Major facility permit limits are accurately coded in PCS and DMR data entry is complete. The DMR entry rate for NPDES majors in the OTIS SRF data report is lower in PCS (78%) than in reality (85% on average) because of the varying DMR timeframes required in California permits.

Minor Permits and DMRs - Minor permit limits and DMRs are not entered in PCS. The State Board has begun coding minor facility permits in PCS and plans to begin processing minor facility DMRs in 2009.

Inspections - Data for major and minor inspections in PCS is incomplete. Neither EPA or the State is entering State inspections of general storm water permittees in PCS.

Informal and Formal Enforcement Actions - Enforcement action data in PCS is incomplete.

### **Review Findings**

- The PCS data for California inspections and enforcement is incomplete.

### **Recommendations**

- See recommendations in sections 3.10 and 3.11.
- Establishment of procedures for entering stormwater inspections and enforcement in the national database will be deferred pending finalization of the ICIS-NPDES policy.



## 4.0 File Reviews – Los Angeles RWQCB

The file review covered 15 facilities representing the range of surface dischargers regulated by the Los Angeles RWQCB. The first dischargers picked for file review were those issued formal enforcement actions or listed on the QNCR during FY06. Others were then picked to ensure the files represented the range of surface dischargers under permit.

File Review Summary California Los Angeles RWQCB	Inspection report completed in a timely manner	Inspection report address all required elements	Violations accurately identified and determinations appropriate	Was SNC determination appropriate	Did enforcement action return the source to compliance	Resolution before violations appeared on QNCR for 2 qtrs	Did action include requirement to return viol to compliance	Did the action include a reasonable compliance schedule	Did the action require appropriate injunctive relief	Did the enforcement action include a penalty	Did the penalty action incorporate BEN and gravity	Did the penalty action include an SEP
Equilon	N	-	Y	Y	-	-	-	-	-	-	-	-
Ventura WRF	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	MMP	Y
Ultramar	N	-	Y	-	-	-	-	-	-	-	-	-
Tapia WWTP	Y	Y	Y	Y	Y	-	Y	Y	Y	N	-	-
Reliant Ormond	N	-	Y	Y	-	Y	-	-	-	-	-	-
Oxnard WWTP	Y	unk	Y	Y	-	-	-	-	-	-	-	-
Camarillo WRP	Y	Y	Y	Y	N	N	Y	Y	Y	N	-	-
Fillmore WWTP	N	-	Y	Y	N	-	Y	Y	Y	Y	MMP	Y
Valencia WRP	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	MP	Y
Boeing Santa Susana	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	Y	Y
Ojai Valley WWTP	Y	Y	Y	Y	Y	-	Y	Y	Y	Y	MP	Y
Universal Waste	Y	Y	Y	-	Y	-	Y	Y	Y	Y	N	N
California Sulphur	Y	Y	N	-	Y	-	Y	Y	Y	N	-	-
Oxnard Blending	Y	Y	Y	-	Y	-	Y	Y	Y	N	-	-
LACSDs SSO	Y	Y	Y	-	Y	-	Y	Y	Y	Y	grv	Y
NPDES Major			NPDES Minor			Spills / SSOs			Stormwater			

Fact Sheets – The Los Angeles RWQCB fact sheets are uniformly very informative and comprehensive, providing the documentation for the permit conditions based on the permit applications, pre-permit inspections, and compliance actions.

Inspection Reports – The Los Angeles RWQCB generates checklist template reports that include a short narrative of the facility description and major findings.

Data Review – The Los Angeles RWQCB maintains a summary spread sheet in each file to tracks when DMRs were due, received, reviewed, and whether they were complete.



Permits and Enforcement Actions – The Los Angeles RWQCB posts all final permits and formal enforcement actions taken by the Board on its web-site.

#### **4.1 Equilon Enterprises, Mormon Island Marine Terminal Facility** NPDES Major – NPDES Permit CA0003557 issued June 14, 2006

Equilon is a bulk petroleum storage facility for the storage and transfer of finished petroleum products off-loaded from cargo ships. Equilon discharges stormwater run-off, ship ballast water, rinse waters, contaminated groundwater, and pipeline displacement wastes to the City of Los Angeles sanitary sewer. This permit allows Equilon to discharge excess stormwater run-off from the tank farm to the Los Angeles Inner Harbor. The last discharges, in 2001, violated permit limits for zinc. A general NPDES permit allows the discharge of hydrotest waters to the Inner Harbor.

The 2006 NPDES permit set for the first time effluent limitations based on the California Toxics Rule ("CTR").

Inspection – None in FY06. The most recent inspection was conducted by a State contractor on October 26, 2004 with its report issued on November 17, 2004.

Data Review – The FY06 DMRs due each quarter were reviewed in 14, 285, 202, and 167 days after receipt. The 2006 annual report due on March 1 was 238 days after receipt. The Los Angeles RWQCB successfully identified the late submittal of the 3Q06 DMR.

Enforcement – No discharges in FY06, thus no violations to enforce. However, the compliance analysis for the permit identified likely violations of the new effluent limits for arsenic, lead, and copper, based on the CTR. As a result, the Los Angeles RWQCB issued a TSO concurrently with the permit to establish interim limits for arsenic, copper, and lead and a time schedule for compliance through 2008.

#### **4.2 City of San Buenaventura, Ventura Water Reclamation Facility** NPDES Major – NPDES Permit CA 0053651 issued October 16, 2000

The Ventura Water Reclamation Facility ("WRF") is tertiary wastewater treatment plant with a design capacity of 14.0 million gallons per day. The Ventura WRF discharges to the Santa Clara River Estuary, the salinity of which varies enough to qualify for either the fresh water or salt water CTR criteria. The permit applied the more stringent salt water quality criteria without an attendant dilution factor, resulting in an analysis that Ventura would violate a number of the effluent limits, in particular for zinc, copper, lead, nickel, and bis(2-ethyl-hexyl)phthalate, and dichlorobromomethane. As a result, concurrent with the issuance of the permit, the Los Angeles RWQCB issued a TSO and later amendments to the TSO that set an interim copper limit in effect through September 2005.

Through DMR reviews, the Los Angeles RWQCB identified 200+ violations of the permit effluent limits from issuance of the permit in 2000 through 2003. The violations were of the



permit limits for toxic organics, pesticides, toxic metals, and chronic toxicity based on the application of the salt water criteria of the CTR, as well as for the conventional pollutants of fecal coliform, turbidity, and suspended solids. In February 2004, the Los Angeles RWQCB issued an NOV, amended with additional violations in November 2004, and June 2005. In November 2005, Ventura began adding iron to foster co-precipitation of copper, nickel, and zinc.

On January 17, 2006, the Los Angeles RWQCB issued an ACLC for an MMP of \$717,000. On February 7, 2006, the Los Angeles RWQCB issued a CAO to require immediate completion of treatment plant upgrades. On March 15, 2006, the Los Angeles RWQCB issued another TSO setting interim limits for copper, nickel, and zinc through December 2006. On December 14, 2006, another TSO was issued to extend the interim limits for copper, and nickel through December 2007. On December 15, 2006, the Los Angeles RWQCB adopted an ACLC for an MMP of \$585,000. The permit is expected to be reissued in October 2007.

Inspections – There were no compliance inspections conducted in FY06. The Los Angeles RWQCB did conduct one pre-permit inspection on December 23, 2005 in advance of reissuing the NPDES permit, however there were no records of this inspection in the files. The findings of the December 23, 2005 pre-permit inspection would be documented upon issuance of a new permit fact sheet.

Pretreatment – The NPDES files did not contain pretreatment review reports for the FY06 pretreatment compliance inspection conducted on February 23, 2006. The pretreatment program files were not available during this review, although later, the RWQCB reported that the pretreatment files are maintained separately by the RWQCB's Pretreatment Coordinator.

Data Review – The Los Angeles RWQCB was successful in identifying and keeping track of permit violations reported in the DMRs.

QNCR – In FY06, the Los Angeles RWQCB correctly listed Ventura in significant non-compliance for the six-month period ending June 2006, although Ventura earlier appeared on the QNCRs ending June 2005 and September 2005. The February 2006 CAO resolved the SNC pending compliance, however, the required immediate completion of wastewater treatment plant upgrades would not have significantly affected the effluent quality for copper, zinc, or nickel.

Enforcement – The Los Angeles RWQCB followed its Enforcement Response Plan with escalating actions from NOVs through a significant MMP. The size of the MMP was a function of the number of pollutants added to the permit in 2000, the frequency of monitoring, and especially, the lengthy five-year time period. The MMP did not incorporate an analysis of economic benefit. A framework for agreement would allow \$300,000 of the MMP to apply to an SEP. The resolution lies in the next permit either through the development of site-specific standards or through removal of the discharge from the estuary, or some combination thereof. The CTR based limits for copper and other metals make it unlikely that resolution would be reached through either source controls or upgraded treatment. The size of the MMPs provides the motivation on all sides to resolve these violations.



#### 4.3 Ultramar, Marine Terminal, Berth 164

NPDES Minor – NPDES permit CA0055719 issued February 1, 2002

Ultramar operates a marine terminal that provides bulk storage and distribution of petroleum. The facility consists of a dock, tank farms, unloading rack areas, a fired heater area, a warehouse, and other buildings. The permit allows the discharge of accumulated stormwater and hydrostatic test waters through oil/water separation to the Los Angeles harbor via a storm-water drain.

Inspections – No inspection in FY06.

Data Review – The FY06 DMRs due quarterly were reviewed within 180 days after receipt. The Los Angeles RWQCB identified no violations in FY06, although there were a few identified reporting and effluent limit violations (pH, residual chlorine) in FY05.

Enforcement – There were no violations identified in FY06 and no resulting enforcement actions.

#### 4.4 Las Virgenes Municipal Water District, Tapia Water Reclamation Facility

NPDES Major – NPDES permit CA0056014 issued November 3, 2005

The Tapia Water Reclamation Facility ("WRF") is a tertiary wastewater treatment plant with a design capacity of 16.1 million gallons per day. The Tapia WRF provides reclaimed wastewater to irrigation and industrial uses with excess discharges to the Los Angeles River or, with permission from the Los Angeles RWQCB, to Malibu Creek and the Los Angeles River. The permit applies nutrient limits and toxics limits derived from the CTR. The Tapia WRF also has the authorization under separate WDRs to discharge to wetlands that could be constructed adjacent to Malibu Creek. The Los Angeles RWQCB issued a TSO concurrent with the permit that sets interim limits for nitrates and bis(2-ethylhexyl)phthalate through December 2010 and allows the installation of membrane bioreactors.

Inspections – There was no inspection report in the files for the NPDES inspection on May 31, 2006.

Pretreatment – The NPDES files did not contain pretreatment review reports for the FY06 pretreatment compliance inspection conducted on February 21, 2006. Pretreatment program files were not available during this review, although later, the RWQCB reported that the pretreatment files are maintained separately by the RWQCB's Pretreatment Coordinator.

Data Review - The FY06 DMRs due each month were all reviewed on either October 24, 2006 or June 4, 2007 roughly 180 days after receipt. The Los Angeles RWQCB successfully identified the late submittal of the July 2006 DMR.

Enforcement – Prior to the 2005 reissuance of the permit and TSO, the Los Angeles RWQCB issued an NOV on August 19, 2005 for nitrate and bis(2-ethylhexyl)phthalate violations.



#### **4.5 Reliant Energy, Ormond Beach Generating Station**

NPDES Major – NPDES Permit CA0001198 issued June 28, 2001

The Ormond Beach Generating Station is an electric power generating station comprising two gas-fueled steam-electric units. The permit authorizes the discharge of once-through cooling water, mariculture laboratory waters, metal cleaning wastes, and low volume wastes through an outfall to the Pacific Ocean. The once-through cooling water is drawn from an ocean intake structure and returned through the outfall. The mariculture laboratory cycles through ocean water. The metal cleaning wastes result from chemical cleaning of boiler tubes, boiler fireside, air preheaters, and other process equipment. The low volume wastes include condensate, boiler blowdown, bulk chemical storage drains, plant and equipment washdown, floor drainage, mobile reverse osmosis unit wastes, and softener regenerant.

The permit advances water quality limits derived from the 1997 Basin Plan and modified Federal BAT standards in 40 CFR 423 for chlorine residual and chronic toxicity, applied to the overall outfall discharge.. The permit does not advance CTR salt water criteria for the outfall nor the Federal BAT standards that apply strictly to the metal cleaning wastes. A separate general stormwater permit covers the discharge of stormwater run-off from the Ormond Beach Generating Station.

Inspections – There were no inspections in FY06.

Data Review – The FY06 DMRs through June 2006 due each month were reviewed on September 7, 2006, roughly 180 days after receipt. The data review successfully identified chronic toxicity violations in March 2006. There are no DMRs or data reviews after June 2006 in the files.

QNCR – Reliant Energy appeared in the 1Q FY07.

Enforcement – There were no enforcement actions in the 2004-2007 files.

#### **4.6 Oxnard Wastewater Treatment Plant**

NPDES Major – NPDES Permit CA0054097 issued July 11, 2002

The Oxnard Wastewater Treatment Plant ("WWTP") is a secondary wastewater treatment plant with a design capacity of 31.7 million gallons per day. The Oxnard WWTP discharges to the Pacific Ocean. The permit advances water quality limits based on the 2001 Ocean Plan and the 1997 Basin Plan. As a result, the permit sets performance goals for toxics based on the discharge quality from 1995-2001 but does not set effluent limits based on the CTR. There were no violations identified in the DMRs.

Inspections – There were no FY06 inspections report in the files.

Data Review - The FY06 DMRs due each month were reviewed on April 12, 2006 September 12, 2006, roughly 90 days after receipt. No violations of effluent limits or reporting requirements were identified.



Pretreatment – The NPDES files did not contain pretreatment review reports for the FY06 pretreatment compliance inspection conducted by the State's contractor on March 20, 2006. The pretreatment program files were not available during this review, although later, the RWQCB reported that the pretreatment files are maintained separately by the RWQCB's Pretreatment Coordinator.

Enforcement – There were no identified violations in 2004-2006 resulting in no enforcement actions in FY06

#### **4.7 Camarillo Sanitary District, Camarillo Wastewater Reclamation Plant** NPDES Major – NPDES Permit CA0053597 issued July 25, 2003

The Camarillo Wastewater Reclamation Plant ("WWRP") is an advanced secondary wastewater treatment plant with a design capacity of 6.75 million gallons per day. The permit allows the Camarillo WWRP to discharge to Conejo Creek which is tributary to Calleguas Creek and the salt marsh, Mugu Lagoon. Separate general WDRs allow the Camarillo WWRP to reclaim treated wastewater through farmland and landscape irrigation. The permit advances limits including water quality criteria based on the CTR and TMDLs for chlorides, nitrogen compounds, toxic metals toxic organics, and pesticides. The permit also maintains iron limits derived from the Basin Plan based on anti-degradation.

The Los Angeles RWQCB concurrently issued the permit and a TSO that set interim limits derived from the Basin Plan based on 1996-2001 plant performance for nitrates plus nitrites, ammonia, and bis(2-ethylhexyl)phthalate. The ammonia-nitrogen limit had to be met by October 24, 2004. The nitrate-N + nitrite-N limit had to be met by July 14, 2007 (four years after the Nitrogen TMDL effective date). The bis(2-ethylhexyl)phthalate limit has to be met by May 10, 2008. The Los Angeles RWQCB issued a second TSO on April 2, 2007 that sets interim limits for TDS and sulfates based on plant performance from 2003 to 2006, to apply through January 31, 2011. The compliance plans indicated the possible redirection of the effluent through the Camrosa outfall.

Inspections – The report for the December 14-15, 2005 sampling inspection consisted of the State contractor's checklist and sampling results. The report did not indicate when it was issued so timeliness cannot be determined. The report listed satisfactory/marginal/unsatisfactory ("S/M/U") ratings only and did not include narrative explanations of the findings and conclusions behind the ratings.

Data Review – The FY06 DMRs due each month were reviewed on July 17, 28, and 31, 2006, over 180 days after receipt. The data review identified TDS, sulfate, ammonia, cyanide, residual chlorine, and chronic toxicity violations.

Pretreatment – The NPDES files did not contain pretreatment review reports for the FY06 pretreatment compliance inspection conducted by the State's contractor on August 7, 2006. The pretreatment program files were not available during this review, although later, the RWQCB reported that the pretreatment files are maintained separately by the RWQCB's Pretreatment Coordinator.



QNCR – The Camarillo WWRP appeared in significant non-compliance in each quarter of FY06 for nutrients and salts.

Enforcement – The Los Angeles RWQCB issued an NOV on July 1, 2005 for TDS and chloride limit violations. There is no record prior to the April 2, 2007 TSO of an NOV or any other enforcement action covering all of the identified violations and resolving the SNC status on the QNCRs. An NOV for pretreatment program non-compliance was reported in the QNCR.

#### **4.8 City of Fillmore, Fillmore Wastewater Treatment Plant**

NPDES Major – NPDES Permit CA0059021 issued October 2, 2003

The Fillmore Wastewater Treatment Plant ("WWTP") is a secondary wastewater treatment plant with a design capacity of 1.3 million gallons per day. The Fillmore WWTP discharges treated wastewater to evaporation/percolation ponds with excess discharged to the Santa Clara River. The Fillmore WWTP was overloaded upon issuance of the permit and could not consistently meet Federal secondary standards. The permit also sets water quality criteria limits for toxics derived from the CTR and nutrient and salts limits derived from the 1997 Basis Plan.

Inspections – There were no inspections in FY06.

Data Review – Most of the FY06 DMRs due each month were reviewed within 180 days after receipt. However, March and July 2006 DMRs were not reviewed and the February 2006 DMR was reviewed more than 180 days after receipt. The reviews identified numerous violations of the interim nitrates plus nitrites limits, and sporadic violations of the permit limits for acute toxicity, chronic toxicity, fecal coliform, and turbidity. There was also a single violation of the beta-radioactivity limit in January 2006.

Pretreatment – There was no pretreatment review inspection in FY06.

Enforcement – Due to on-going violations, the Los Angeles RWQCB issued, concurrent with the 2003 permit, a TSO that interim limits for BOD, TSS, turbidity, nutrient, chloride, surfactants as measured by MBAS, fecal coliform and bis(2-ethylhexyl)phthalate. This TSO requires compliance with the ammonia and other limits by September 10, 2008. The Los Angeles RWQCB issued an ACLC for an MMP of \$264,000 on September 2, 2005, of which \$139,000 was allowed to apply to a SEP for constructed wet-lands to treat stormwater. The MMP covered past violations from November 2000 through July 2003 before issuance of the new permit and TSO. The MMP covered violations of BOD, TSS, chlorides, fecal coliform, oil and grease, settleable solids, and suspended solids. The MMP did not incorporate an analysis of economic benefit.

The numerous violations identified since 2003 of the interim limits in the TSO and of the other limits in the new permit have not been addressed through issuance of an NOV or any other enforcement action.



#### 4.9 CSD Los Angeles County, Valencia Water Reclamation Plant

NPDES Major – NPDES permit CA0054216 issued November 6, 2003, effective 50 days later (December 26, 2003)

The Valencia Water Reclamation Plant ("WRP") is a tertiary wastewater treatment plant with a design capacity of 12.6 million gallons per day. The Valencia WRP discharges treated wastewater to the Santa Clara River. The permit sets water quality criteria for toxics derived from the CTR and interim limits for nutrients and salts based on the Basin Plan and RWQCB issued TMDLs. CSD Los Angeles was in the process of upgrading the Valencia WRP to provide nutrient removal through nitrification/denitrification with modified activated sludge. Because of expected violations of the new permit limits, the Los Angeles RWQCB issued, concurrent with the permit, a TSO that established interim limits for nitrate plus nitrite based on the 2003 *Nitrogen TMDL*, for chloride based on State Water Project averages, and for tetrachloroethylene, 1,4-dichlorobenzene, and bis(2-ethylhexyl)phthalate based on past treatment plant performance in 1995 to 2003. The interim limits remain in effect for toxics through October 10, 2008. The other interim limits for nutrients and salts remain in effect through the life of the TMDLs not to exceed 13 years.

Data Review – The FY06 DMRs due each month were all reviewed within 180 days after receipt. The reviews found a only couple of isolated missing sample results.

Enforcement – There were no identified violations requiring an enforcement action. However, because of expected violations of the new permit limits, the Los Angeles RWQCB issued, concurrent with the permit, a TSO that established interim limits for nitrate plus nitrite based on the 2003 *Nitrogen TMDL*, for chloride based on State Water Project averages, and for tetrachloroethylene, 1,4-dichlorobenzene, and bis(2-ethylhexyl)phthalate based on past treatment plant performance in 1995 to 2003. The interim limits remain in effect for toxics through December 2008. The other interim limits for nutrients and salts remain in effect through the life of the TMDLs not to exceed 13 years.

Pretreatment – The CSD Los Angeles County pretreatment program is reviewed as one program under the permit for the Joint Water Pollution Control Plant. As a result, there is no separate pretreatment review of the Valencia WRP. The RWQCB did perform a local limits review at the time of the NPDES permit renewal. The State's contractor conducted a pretreatment compliance inspection of the CSD Los Angeles County pretreatment program on January 23-25, 2006.

#### 4.10 Boeing Company, Santa Susana Field Laboratory

NPDES Major – NPDES Permit CA0001309 issued July 12, 2004

The Santa Susana Field Station is a field laboratory, consisting numerous buildings and test sites, owned jointly by Boeing and the United States government (NASA and Department of Energy). The Santa Susana Field Station historically has been involved in the development and testing of rocket engines, missile components, and chemical lasers, as well as the research and development of energy programs and seismic testing experiments. One facility at the Santa Susana Field Laboratory involved the use and generation of radioactive nuclear



materials and wastes. Current activities are limited to rocket engine testing conducted by Boeing and facility closure and site remediation and restoration.

The Santa Susana Field Station generates (1) stormwater run-off, (2) treated groundwater, and (3) process cooling, hydrotesting, and fire suppression wastewaters from rocket engine testing. The permit allows excess wastewaters composed of the commingled stormwater run-off, treated groundwater, and process wastewaters, to discharge from two of the ponds into Bell Creek. The permit also allows the discharge of stormwater run-off through eight other outfalls into either Bell Creek or drainages into Dayton Canyon Creek, and process wastewaters from test stands and the perimeter pond. Both Bell Creek and the Dayton Canyon Creek discharge into the Los Angeles River.

The permit advances limits for ammonia based on the 1997 Basin Plan, chemical and radioactive contaminants from the California Title 22 regulations, Department of Health Services action levels for perchlorate, water quality criteria for toxics derived from the CTR, and TMDLs for chloride, nitrogen, and fecal coliform. The permit was amended on March 17, 2006, to incorporate a interim limit for cadmium at certain outfalls with a one-year compliance schedule.

Inspections – The permits section inspected the Santa Susana Field Station on January 3, 2006 and issued an inspection report on February 14, 2006. The report consisted checklist finding, a short narrative, and photographs annotated with narrative.

Data Review – The Los Angeles RWQCB prepared the administrative record to address a petition by Boeing to review the WDRs in the permit. The Los Angeles RWQCB reviewed the quarterly DMRs and successfully identified violations resulting in NOVs.

Enforcement – On November 30, 2005, the Los Angeles RWQCB issued a CAO to require the initiation of a cleanup and abatement program that implements all BMPs for erosion and ash deposition. The CAO followed-up two NOVs and a Section 13267 order. The March 14, 2005 NOV identified copper, mercury, pH and TCDD violations during 4Q04 and required submittal of a corrective action plan to achieve compliance. The October 7, 2005 NOV identified mercury, TCDD, residual chlorine, oil and grease, sulfate, MBAS, iron, chromium, lead, manganese, TDS, and chronic toxicity violations during 1Q05 and 2Q05. The November 22, 2005 Section 13267 order required Boeing to submit a compliance workplan. On July 25, 2007, the Los Angeles RWQCB issued an ACLC for \$471,190.

#### **4.11 Ojai Valley Sanitary District, Ojai Valley Wastewater Treatment Plant** NPDES Major – NPDES Permit CA0053961 issued June 5, 2003

The Ojai Valley Wastewater Treatment Plant ("WWTP") is a oxidation ditch, nutrient-removal, tertiary wastewater treatment plant with a design capacity of 3.0 million gallons per day. The Ojai Valley WWTP discharges to the Ventura River. The permit advances water quality limits based on the 1994 Basin Plan for conventional pollutants, oil and grease, nutrients, residual chlorine, surfactants, toxicity, and salts, as well as on the 2000 CTR and



anti-backsliding requirements for metals, cyanide, and toxic organics. There were no violations identified in the DMRs.

Inspections – The undated report for the May 17, 2006 inspection consisted of the State contractor's checklist and photo documentation. The report listed satisfactory/marginal/unsatisfactory ratings only and did not include narrative explanations of the findings and conclusions behind the ratings.

Data Review – The FY06 DMRs due each month were reviewed within 180 days after receipt.

Pretreatment – The pretreatment report for the February 21, 2006 pretreatment compliance inspection consisted of the State contractor's checklist and narrative findings.

Enforcement – On August 5, 2005, the Los Angeles RWQCB issued an NOV for coliform, turbidity, and chronic toxicity. On February 10, 2006, the Los Angeles RWQCB issued a Section 13267 letter to require Ojai Valley to submit a schedule of corrective actions to achieve compliance with the permit limits for coliform, turbidity, and chronic toxicity. In FY07 the Los Angeles RWQCB issued an ACLC for MMPs of \$123,000 for past permit violations.

#### **4.12 Universal Waste Systems, Whittier Facility**

Stormwater – NPDES General Industrial Stormwater Permit CAS000001 issued in 1997

Universal Waste Systems in Whittier is a refuse collection facility. Stormwater drains to Coyote Creek. Violations of the stormwater permit were identified through routine site inspections.

Inspection – The Los Angeles RWQCB inspected the facility on November 4, 2005 and found BMPs not implemented, vehicle wash waters discharging to the storm drains, uncontained and uncovered chemical storage areas. The Los Angeles RWQCB conducted a follow-up inspection on June 13, 2006. The reports were issued the day following the inspection. The reports consist of checklists and photographic documentation.

Data Review – Universal Waste Systems did not submit its 2004-2005 annual report which prompted the RWQCB to inspect the facility.

Enforcement – The Los Angeles RWQCB issued a Notice of Non-compliance on August 24, 2005 and an NOV on October 17, 2005 for the failure to submit the annual report. The Los Angeles RWQCB followed the inspection with an NOV on November 16, 2005 for the violations identified in the inspection. The Los Angeles RWQCB then issued a third NOV for the failure to respond to the previous NOVs. On June 2, 2006, the Los Angeles RWQCB issued a proposed ACLC for \$15,940 for the violations of the general stormwater permit but not for the failure to respond to the NOVs. The penalty was based on statutory factors.



#### 4.13 California Sulphur Company, Wilmington Facility

NPDES Minor - NPDES Permit No. CA0059064 issued on April 1, 2004

California Sulphur Company in Wilmington is a sulfur pelletizing and exporting plant. The processes include liquid sulfur storage, pelletizing, mechanical pellet dewatering, transfer, storage, and shipping. Dewatering water, pelletizing cooling water spills, and stormwater run-off are collected for on-site recycling through clarifiers and a water treatment system. Reclaimed wastewaters are stored in an on-site storage pond. The water treatment system has a design capacity of 86,400 gallons per day. The final pond is designed to hold a 100-year 24-hour storm. Pond overflow can discharge to the Dominguez Channel but had not during the 10 years prior to the issuance of the NPDES permit. The permit advances BMPs and BPJ limits for conventional pollutants, oil and grease, sulfides, and phenols, as the expression of Best Available Technology treatment, and water quality limits derived from the 1994 Basin Plan for pH, and toxicity.

Inspection – On August 28, 2003, the Los Angeles RWQCB issued a State contractor report from an inspection of the facility on August 23, 2003. The reports includes narrative findings.

Data Review – The inspection report identified missing self-inspection and self-monitoring reports. However, it took the Los Angeles RWQCB three years to address the violations.

Enforcement – Almost three years after the inspection, on April 28, 2006, the Los Angeles RWQCB issued an NOV based in part on the finding of the 2003 inspection report as well as for the failure to conduct annual self-inspections and self-monitoring and to reapply for the permit. The NOV required California Sulphur to submit a report of corrective actions by May 28, 2006. The report included the missing self-inspection and self-monitoring reports, the permit reapplication. As a result, the NOV returned California Sulphur to compliance.

#### 4.14 City of Oxnard Water Section, Blending Station No.3

Stormwater – NPDES General Construction Stormwater Permit CAS000002

Blending Station No.3 is a facility where on-site ground water, imported regional water, regional waters are blended into the Oxnard drinking water supply. Oxnard filed a Notice of Intent in June 3, 2005 for coverage under the NPDES general construction stormwater permit.

Inspection – The Los Angeles RWQCB inspected the blending station and issued a report with a handwritten Notice to Comply field citation on June 22, 2005. The RWQCB followed up with a second inspection on October 4, 2005 with the report issued October 11, 2005. The second inspection report noted a return to compliance. The reports consist of checklists and photographic documentation.

Data Review – Oxnard submitted a Storm Water Pollution Prevention Plan ("SWPPP").

Enforcement – The Los Angeles RWQCB issued a Notice to Comply field citation on June 22, 2005. The RWQCB verified the return to compliance by follow-up inspection.



#### **4.15 Los Angeles County Sanitary Districts, Manhattan Beach SSO**

NPDES Major / SSO, NPDES Permit CA0053813 issued April 6, 2006

The Los Angeles County Sanitary Districts (CSDs) holds NPDES permits for a regional wastewater treatment plant (Carson Joint Water Pollution Control Plant) and a number of satellite wastewater reclamation plants (Valencia, Whittier Narrows, Pomona, etc.). On January 15-16, 2006, the Los Angeles CSDs spilled 1.5 million gallons of untreated sewage to the Manhattan and Hermosa beaches. The spill was caused by the concurrent failures of the electrical controls of a pump station and the telemetry system of alarms.

Inspection – The Los Angeles RWQCB inspected spill site during the spill event on January 15, 2006. EPA inspected the pump station on February 2, 2006 and the Los Angeles RWQCB and EPA jointly inspected all of the critical pump stations along the coast on March 8-9, 2006. The inspection report for the March 2006 inspection consisted of extensive narrative findings.

Data Review – The Los Angeles CSDs submitted pump station data and clean-up reports in response to the January 20, 2006 CAO.

Enforcement – The Los Angeles RWQCB issued a CAO on January 20, 2006, five days after the Manhattan Beach spill. The CAO required clean-up of the beaches, beach postings, technical reports regarding the cause of the spill, and historical recounts of other spills. The Los Angeles RWQCB then followed-up with a proposed ACLC on July 14, 2006. Negotiations involving the RWQCB, EPA, the Los Angeles CSDs, and an environmental group resulted in a settlement agreement on November 13, 2006 covering the Manhattan Beach spill and over 90 others throughout the sewer service area onto the beaches. The Los Angeles RWQCB issued a final ACLC of \$2,500,000 based on the settlement agreement that allowed \$2,375,000 to be applied to SEPs and the remaining \$125,000 to the Clean-up and Abatement Fund. The SEPs allocated \$2,200,000 for a San Gabriel River Discovery Center, \$50,000 for public outreach, and \$125,000 for research, all of which were not contemplated for funding by the Los Angeles CSDs and thus qualified under the SEP criteria.



## 5.0 File Reviews – Central Valley RWQCB

The file review covered 16 facilities representing the range of surface dischargers regulated by the Central Valley RWQCB Sacramento Office. The first dischargers picked for file review were those issued formal enforcement actions or listed on the QNCR during FY06. Others were then picked to ensure the files represented the range of surface dischargers under permit.

File Review Summary California Central Valley RWQCB		Inspection report completed in a timely manner	Inspection report address all required elements	Violations accurately identified and determinations appropriate	Was SNC determination appropriate	Did enforcement action return the source to compliance	Resolution before violations appeared on QNCR for 2 qtrs	Did action include requirement to return viols to compliance	Did the action include a reasonable compliance schedule	Did the action require appropriate injunctive relief	Did the enforcement action include a penalty	Did the penalty action incorporate BEN and gravity	Did the penalty action include an SEP
Modesto WQCF	N	Y	Y	Y	N	-	Y	Y	N	Y	MMP	?	
Cascade Shores	Y	Y	Y	-	Y	-	Y	Y	Y	Y	MMP	Y	
Colfax STP	Y	Y	Y	-	N	-	Y	Y	Y	Y	MMP	Y	
Proctor & Gamble	Y	Y	Y	-	Y	-	-	-	-	-	Y	MMP	-
Aerojet-General	N	-	Y	Y	-	-	-	-	-	-	-	-	-
French Bar Bluffs	Y	Y	Y	-	Y	-	Y	Y	Y	Y	unk	-	
Tracy WWTP	Y	N	Y	Y	Y	-	-	-	-	-	Y	MMP	-
Linda Co WWTP	N	-	Y	Y	Y	-	Y	Y	Y	N	-	-	
Deer Creek WWTP	N	Y	Y	Y	Y	-	Y	Y	Y	N	-	-	
Bear Valley WWTP	N	-	N	-	Y	-	Y	Y	Y	N	-	-	
DR Horton	Y	Y	Y	-	Y	-	Y	Y	Y	Y	N	Y	
Std Pacific Homes	Y	Y	Y	-	Y	-	Y	Y	Y	Y	N	N	
PL Roseville	Y	Y	Y	-	Y	-	Y	Y	Y	Y	N	Y	
Applegate WWTF	N	-	Y	-	Y	-	Y	Y	Y	Y	N	N	
St Gregory's Olive Oil	N	-	Y	-	Y	-	Y	Y	Y	N	-	-	
Rancho Ponderosa	Y	Y	Y	-	Y	-	Y	Y	Y	N	-	-	
NPDES Major		NPDES Minor			Spills / SSOs			Stormwater					

Fact Sheets – All RWQCBs generate comprehensive fact sheets based on the permit application, on pre-permit inspections, and compliance actions. The Central Valley RWQCB fact sheets are all very informative and comprehensive, providing the documentation for the permit conditions.

Inspection Reports – The Central Valley RWQCB uses a State contractor to conduct routine inspections of NPDES facilities. Those done in FY06 were issued by the Central Valley RWQCB up to a year later. The delay between the inspection and the report was the result of a review backlog and requested revisions.



Data Review – The NPDES Compliance and Enforcement Unit systematically reviews incoming DMRs, logs in receipt and review dates, stamps the DMR cover letters and marks when it was received, when it was reviewed (usually within 30 days of receipt), by whom (now compliance section), noting any violations, and the type of violations. These functions were previously the responsibility of Area Engineers but not systematically accomplished or documented.

Permits and Enforcement Actions – The Central Valley RWQCB posts all final permits and formal enforcement actions taken by the Board on its website.

## 5.1 City of Modesto, Modesto Water Quality Control Facility

NPDES Major – NPDES Permit CA0079103 issued May 16, 2001

The Modesto Water Quality Control Facility ("WQCF") is secondary wastewater treatment plant utilizing trickling filters and facultative ponds with a design capacity of 62.5 million gallons per day. The primary and secondary portions of the plant are a mile apart connected by a primary effluent line. The Modesto WQCF discharges to reclaim on agriculture land and is permitted to discharge in the wet weather season (October to May) to the San Joaquin River. Modesto has a pretreatment program for industrial wastewater sources. The San Joaquin River is identified as impaired on the California 303(d) List for salts and pesticides associated with agriculture. The San Joaquin has also been identified as impaired due to low dissolved oxygen content.

The permit applied the standard secondary treatment 85% removal requirements for BOD and TSS even though ponds can be considered equivalent to secondary and the river is impaired for dissolved oxygen. The permit contains limits for salinity based on the 1995 Bay-Delta Plan and for selenium, molybdenum, and pesticides based on TMDLs and the 1996 Basin Plan. The permit sets copper limits based on the 2000 CTR that did not take effect until April 1, 2006 and interim copper limits to be in effect until then. The NPDES permit did not set any other first time effluent limits based on the CTR.

The Central Valley RWQCB issued a CDO, concurrently with the permit, requiring a pollution prevention plan by July 2002 and compliance with the permit limit for molybdenum by July 1, 2005.

Inspection – The Modesto WQCF was inspected on May 19, 2005 with the report issued a year later by the Central Valley RWQCB on July 29, 2006. The report included checklist findings, and detailed narrative explanations, and identified fecal coliform violations. Modesto reviewed its sampling procedures in response to the report. The Modesto pretreatment program was audited by the State contractor on March 29, 2006 with the report issued by the Central Valley RWQCB on July 27, 2006. Modesto revised a few industrial user permits in response to the audit.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days, although consistent documentation of the review did not begin until April 2006.



Pretreatment – The files contained pretreatment compliance inspections and audits, including the FY06 report for the pretreatment inspection conducted by the State contractor on March 27, 2006, the responses from Modesto, the annual reports, and local limit determinations.

Sewer Overflows – In FY06, Modesto self-reported at least 30 sanitary sewer overflows and spills from the primary effluent line in FY06 -- September 16, 2006, August 20, 2006, August 18, 2006, August 12, 2006, August 6, 2006, July 29, 2006, July 28, 2006 (2), July 26, 2006, July 19, 2006, June 28, 2006, May 23, 2006, May 12, 2006, May 11, 2006, May 6, 2006, May 3, 2006, April 11, 2006, April 7, 2006, March 15, 2006, February 5, 2006, February 4, 2006, January 26, 2006, January 24, 2006, January 5, 2006, January 3, 2006, December 19, 2005, December 16, 2005, December 12, 2005, November 19, 2005, and October 8, 2005. Each of these spills was between 1,000 and 50,000 gallons. Modesto has prepared an engineering plan for collection system and treatment plant improvements. The Central Valley RWQCB has not issued enforcement regarding these on-going spills.

Enforcement – The 2001 CDO for molybdenum resulted in the implementation of a pollution prevention plan based on lowered local limits and compliance assistance to the cannery users of cooling towers. On December 19, 2005, the Central Valley RWQCB issued an ACLC with a proposed penalty of \$152,000 for a large (>1 million gallon) sewage spill that occurred in October 2004. The penalty was paid on January 11, 2006.

## 5.2 Nevada Co. San. District No.1, Cascade Shores Wastewater Treatment Plant

NPDES Minor – NPDES Permit CA0083241 issued June 14, 2001

The Cascade Shores Wastewater Treatment Plant ("WWTP") serves less than 100 homes. It is tertiary wastewater treatment plant utilizing activated sludge and sand filtration trickling filters and facultative ponds with a design capacity of 0.059 million gallons per day. The Cascade Shores WWTP discharges to an ephemeral stream leading to Rollins Reservoir and Bear River. The discharge would only reach downstream receiving waters during extreme events. The permit initially applies limits only for conventional pollutants, total coliform, and chlorine residual but adds nutrient limits based in the 2000 CTR to become effective after permit expiration on June 14, 2006. The permit set a five-year time schedule to install nitrification-denitrification by the end of the permit. Nevada County has procured small community grants, technical assistance, and loans.

Inspection – Cascade Shores WWTP was inspected on May 11, 2005 the day after a landslide displaced the influent line resulting in the discharge of untreated sewage to the creek. The report included detailed narrative and photographic findings.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days. The violations were identified and noted.

Enforcement – The Central Valley RWQCB issued an NOV on June 24, 2005 and a Section 13267 letter to submit a technical report on June 27, 2005. The Central Valley RWQCB then issued an ACLC on August 10, 2005 with a proposed penalty of \$574,000 of which \$498,000 was an MMP for effluent violations and the rest for the sewage spill caused by the landslide.



The Central Valley RWQCB then issued a CAO on August 23, 2005 to further require the mitigation of the slope instability by October 15, 2005 before the start of the rainy season. Nevada County requested an extension of the permit and CAO deadlines since its engineering report recommended relocation of the WWTP as the long-term solution. In addition, monitoring indicated that the Cascade Shores WWTP could not achieve compliance with the permit limits for nutrients by June 2006. As a result, the Central Valley RWQCB issued a CDO on May 17, 2006 that required site stability mitigation and nutrient removal by September 30, 2007. The State Water Resources Control Board determined that Cascade Shores qualifies a small community with financial hardship for exemption from the mandatory minimum penalty provisions. The penalty has not been paid as of yet.

### **5.3 City of Colfax, Colfax Wastewater Treatment Plant**

NPDES Minor – NPDES Permit CA0079529 issued June 14, 2001

The Colfax Wastewater Treatment Plant ("WWTP") is a tertiary wastewater treatment plant using aerated ponds, chlorination and filtration, with a surface water discharge and an effluent storage reservoir for equalization and storage. The configuration is unusual with chlorination preceding filtration. Colfax is a small community in the Sierra foothills. The Colfax WWTP has a design capacity of 0.20 million gallons per day. Seepage from the storage reservoir has historically discharged from the toe of the retaining dam to Smathers Ravine on eventually to the North Fork of the American River. Furthermore, limited reservoir storage capacity has resulted in numerous overflows from the spillway of treated but undisinfected sewage to the ravine. The seepage is now collected and treated at the tertiary plant. The City of Colfax is constructing a new tertiary WWTP, with a design capacity of 0.275 mgd for discharge to the ravine, to start-up in 2010.

The permit authorizes the treated and disinfected discharge of seepage, runoff, and reservoir freeboard from the Colfax WWTP but recognizes that seepage and emergency spillway overflows discharge to the ravine. The permit sets effluent limits for discharge for conventional pollutants, total coliform, chlorine residual, and toxicity. The permit established interim limits for coliform through the five-year duration of the permit. The permit also sets less stringent effluent limits for disposal through land application, however, land disposal was determined to be not feasible and has ceased.

Inspection – There was an inspection conducted by the State contractor of the Colfax WWTP on April 28, 2006 and issued by the Central Valley RWQCB on March 12, 2007. This inspection report consisted of a checklist, narrative findings, and photographs.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days. The violations were identified and noted.

Enforcement – There has been a long history of violations and enforcement related to the capacity of storage and seepage since construction of the WWTP in 1979. The Central Valley RWQCB issued a CDO concurrent with the permit on June 14, 2001 to address nearly 200 days of discharge of undisinfected treated sewage over the spillway, as well as coliform and residual chlorine violations. The CDO required compliance with tertiary treatment



standards by June 14, 2006. To comply with the CDO, the City of Colfax built and interim tertiary treatment plant. On December 5, 2003, the Central Valley RWQCB issued an ACLC for a MMP of \$351,000 that allowed the penalty to be directed toward a compliance project if all violations are corrected within five years through the end of 2006. The City failed to meet this deadline and the RWQCB notified the City that full payment of the penalty was due. The City has petitioned this action. The City has secured funding and is now constructing its upgraded treatment facility to meet permit requirements.

#### **5.4 Proctor and Gamble Manufacturing**

NPDES Minor – NPDES Permit CA0004316 issued March 23, 2001 and modified on March 24, 2005

Proctor and Gamble discharged cooling water and stormwater run-off from its facility in Sacramento into Morrison Creek. All other domestic and industrial wastewaters are discharged into the Sacramento Regional County sewerage works. The permit set effluent limits for chemical oxygen demand, TDS, chlorine residual, pH, maximum flow, and toxicity. The permit also required self-monitoring for the toxic pollutants of concern in the 2000 CTR but did not set limits based on the CTR. The Central Valley RWQCB rescinded the permit on June 29, 2006 because Proctor and Gamble ceased discharge of the cooling water. Proctor and Gamble instead installed cooling towers that now discharge to the sanitary sewers. The remaining stormwater run-off discharges to Morrison Creek under the general stormwater permit.

Inspection – The Central Valley RWQCB inspected Proctor and Gamble on August 17, 2005 upon receiving a report of a high-pH cooling water spill from the wastewater retention system. The report included detailed narrative and photographic findings.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days. The violations were identified and noted.

Enforcement – On August 10, 2006, the Central Valley RWQCB issued an ACLC for an MMP of \$18,000 for pH and residual chlorine violations and received payment on October 23, 2006.

#### **5.5 Aerojet-General Corporation**

##### **Interim Groundwater Extraction and Treatment Systems**

NPDES Major – NPDES Permit CA0083861 issued January 26, 2006

Aerojet-General is a Superfund site in Sacramento County. Aerojet installed and operates eight groundwater extraction and treatment systems which discharge to Buffalo Creek, Morrison Creek, the American River, Sailor Bar Park Pond, and in the future to Alder Creek. The Aerojet groundwater extraction and treatment systems treat for perchlorate, TCE, vinyl chloride, PCE, n-nitrosodimethylamine (NDMA), 2,4-dioxane, and others. The Aerojet groundwater extraction and treatment systems involve either ion-exchange or biochemical



reduction of perchlorate, either air-stripping, carbon adsorption, UV-oxidation, or ozone/peroxide-oxidation for VOCs, and UV-oxidation for NDMA.

The permit sets effluent limits for each of the groundwater extraction and treatment systems for flow, pH, perchlorate and VOCs based on determinations of Best Available Technology, acute toxicity based on the 1996 Basin Plan, and for copper, aldehydes, dioxane, NDMA, and dichloroethane based on the CTR. In most instances the effluent limitations do not take into account mixing or dilution within the receiving waters.

Inspection – There was no inspection report found in the file for the Aerojet-General groundwater extraction and treatment systems in FY06. However, there was a transmittal of sampling results from samples collected during a December 2006 inspection of the treatment facilities. The results did not show a violation of the effluent limits.

Data Review – The FY06 DMRs due each month are self-reviewed for violations by Aerojet. Aerojet self-identified (1) perchlorate violations from Unit E/F in Apr06 and Jun06 and from Unit J in Mar06, (2) NDMA violations from Unit J in Mar06 and Jul05 and from Low-Threat in Feb06, and (3) one violation on Sep06 for copper effluent violations from ARGET. The DMRs were not stamped and logged as reviewed. However, the monitoring reports are thoroughly reviewed by the project manager within three days of receipt and the results are discussed with Aerojet staff.

Enforcement – There was no formal enforcement in FY06. Aerojet was directed through informal enforcement to take appropriate actions to investigate the violations and make corrections.

## **5.6 French Bar Bluffs, LLC and William Ullman, French Bar Bluffs Subdivision**

Stormwater – NPDES General Construction Stormwater Permit CAS000002

French Bar Bluffs is a 544-acre subdivision under development in Stanislaus County. The Central Valley RWQCB inspected the property and found extensive grading and construction work that impacted the stream habitat without coverage under the NPDES general permit for stormwater. The work included creek channel grading, construction of eight earthen dams, and removal of riparian habitat without a Clean Water Act Section 404 permit or a Section 401 Water Quality Certification.

Inspection – The Central Valley RWQCB inspected French Bar Bluffs on June 22, 2005, September 26, 2005, April 3, 2006, April 6, 2006, and April 17, 2006, successfully documenting non-compliance with the general permit conditions and the enforcement actions. The reports included detailed narrative and (undated) photographic findings but did not include a map.

Data Review – Not applicable. Violations were identified through inspections.

Enforcement – The Central Valley RWQCB first issued a Notice of Non-Compliance on June 27, 2005 which required French Bar Bluffs to cease activity in the riparian areas and to



comply with the requirements of the general stormwater construction permit. The Central Valley RWQCB then issued a CAO on July 29, 2005 requiring removal of the dams and site stabilization by September 1, 2005. French Bar Bluffs did not comply with the CAO. The Central Valley RWQCB issued a second NOV on September 29, 2005 for failure to comply with the CAO. The Central Valley RWQCB then followed-up with a second CAO on April 20, 2006 that required site clean-up, restoration, and stabilization, as well as the purchase of mitigation credits for habitat loss by October 1, 2006. French Bar Bluffs did not fully comply with the second CAO. However, the US Army Corps of Engineers and the State filed suit against French Bar Bluffs and received a court judgment for injunctive relief and penalties. The settlement has not yet been reached.

## 5.7 City of Tracy, Tracy Wastewater Treatment Plant

NPDES Major – NPDES Permit CA0079154 issued May 10, 2007

The Tracy Wastewater Treatment Plant ("WWTP") is secondary activated sludge wastewater treatment plant with a design capacity of 9 million gallons per day. The Tracy WWTP discharges to the Old River. The previous 1996 version of the permit (WDRs) applied limits only for conventional pollutants, oil and grease, pH, total coliform, chlorine residual, and toxicity. The 2007 permit requires tertiary treatment adds toxics limits for aluminum, copper, iron, and chlorination byproducts, based on the CTR, and for salts, and nutrients, based on the 1996 Basin Plan. The 2007 permit also includes compliance schedules, pollution prevention plans, and interim limits for copper, ammonia, salinity, and aluminum, and more stringent requirements for conventional pollutants.

Tracy also accepts industrial wastewater from an adjacent cheese manufacturing facility by dedicated line to a lined aerated ponds and unlined holding ponds, leased from the City by the company, for discharge to the Tracy WWTP. The Central Valley RWQCB adopted separate WDRs for the groundwater percolation from the holding ponds

Inspection – There was no inspection of the Tracy WWTP in FY06. The Tracy pretreatment program was audited by the State contractor on October 13, 2005 with the report issued by the Central Valley RWQCB on May 15, 2006.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days, although consistent documentation of the review did not begin until August 2006.

Pretreatment – The files contained a pretreatment compliance audit, including the FY06 report for the pretreatment audit conducted by the State contractor on October 13, 2005, the responses from Tracy, and self-monitoring portions of the annual reports for Tracy.

Enforcement – The Central Valley RWQCB issued an ACLC on October 21, 2005 of \$80,000 for a chlorine release on October 21, 2003. The ACLC allowed half of the penalty to go toward an SEP.



## 5.8 Linda County Water District, Linda Wastewater Treatment Plant

NPDES Major – NPDES Permit CA0079651 issued October 3, 2006

The Linda County Water District Wastewater Treatment Plant ("Linda County WWTP") is secondary trickling filter wastewater treatment plant with a design capacity of 1.8 million gallons per day. The Linda County WWTP discharges to percolation ponds, in the flood plain, that have a rarely used outfall to the Feather River. A plant upgrade to nitrification-denitrification-tertiary treatment and expansion to a design capacity of 5.0 mgd is expected by the end of 2008. The plant upgrade and expansion would also involve elimination of the percolation ponds in the river flood plain and the discharge to the Feather River through a new outfall. The permit (WDRs) applies limits for conventional pollutants based on relaxed equivalent-to-secondary standards for pond systems, and interim limits for metals, pesticides and other toxics based on the CTR, and nutrients based on the 1996 Basin Plan. The permit then applies more stringent limits for conventional pollutants based on tertiary treatment, and final limits for toxics based on the Basin Plan and the CTR to take effect by May 18, 2010.

Inspection – There was no inspection of the Linda County WWTP in FY06. The last inspection report was issued on April 14, 2004.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 30 days, although consistent documentation of the review did not begin until August 2006.

Enforcement – The upgrade and expansion is to proceed under the requirements of a TSO issued concurrently with the permit. The TSO establishes further interim limits, requires compliance with the organochlorine limits by May 18, 2010 and full compliance with the permit final limits by September 21, 2011. The only enforcement in the record was the TSO issued concurrently with the new permit.

## 5.9 El Dorado Irrigation District, Deer Creek WWTP

NPDES Major – NPDES Permit CA0078662 issued December 6, 2002

The Deer Creek Wastewater Treatment Plant ("WWTP") is tertiary activated sludge wastewater treatment plant with a design capacity of 3.6 million gallons per day. The Deer Creek WWTP discharges to Deer Creek and on to the Cosumnes River and to a wastewater reclamation system feeding a "purple pipe" non-potable water system primarily used for community landscaping and homeowner lawns. The reclamation system operates under a separate set of WDRs called the Master Reclamation Permit. The discharge from the Deer Creek WWTP can at times dominate the flow in Deer Creek causing violations of the 1996 Basin Plan objectives for pH, dissolved oxygen, temperature, and turbidity. Facility improvements under the requirements of a 1995 CDO resulted in compliance with the dissolved oxygen limit. The Central Valley RWQCB adopted Basin Plan amendments in 2002 for pH and turbidity and in 2005 for copper, coliform, and temperature. As a result, the permit has separate discharge limits when the receiving waters provide over and under a 20-to-1 dilution, as well as reclamation limits. The permit establishes limits for conventional pollutants, coliform, turbidity, chlorine residual, and nutrients, based on the 1996 Basin Plan, and for copper and a limited list of chlorinated organics, based on the CTR.



Inspection – There was an inspection conducted by the State contractor of the Deer Creek WWTP on April 19, 2006 and issued by the Central Valley RWQCB on March 12, 2007. This inspection report consisted of checklist and narrative findings and pictures.

Data Review – The FY06 DMRs due each month are reviewed and logged as reviewed generally within 60 days, although consistent documentation of the review did not begin until August 2006. The El Dorado Irrigation District identifies any permit limit violations and any spill from the collection system in their cover letter for the DMRs.

Pretreatment – The permit includes pretreatment requirements. EPA issued an Administrative Order on September 30, 2003 requiring the El Dorado Irrigation District to submit and implement a pretreatment program since the District owns and operates two WWTPs, with combined design capacities over 5.0 mgd, which accept wastewaters from identified significant industrial users. The Central Valley RWQCB has not reviewed and approved the El Dorado Irrigation District pretreatment program. EPA has reviewed the program but the State has the delegated authority for program approval. There were no pretreatment files.

Enforcement – The Central Valley RWQCB issued a CDO concurrent with the permit on December 6, 2002 which established a compliance time schedule to expand the tertiary filtration capacity in order to comply with the permit limits for coliform, copper, and chlorinated organics by 2007. The Central Valley RWQCB issued an amendment to the CDO on October 17, 2003 to establish a compliance time schedule for nutrients and total trihalomethanes. The Central Valley RWQCB issued an amendment to the permit on 03/17/05 to adopt the site-specific amendments to the Basin Plan for coliform, turbidity, temperature, and pH. A second amendment has been drafted to adopt site-specific amendments to the Basin Plan for copper. The California Sportfishing Protection Alliance and the Deltakeeper filed a lawsuit challenging the RWQCB's and the SWRCB's decision to allow site-specific amendments to the Basin Plan for temperature.

## 5.10 Bear Valley Water District, Bear Valley WWTP

NPDES Minor – NPDES Permit CA0085146 issued October 31, 2005

The Bear Valley Wastewater Treatment Plant ("WWTP") is equivalent-to-secondary aerated lagoon wastewater treatment plant with a design capacity of 0.5 million gallons per day serving the community of Bear Valley and the ski resort. The Bear Valley WWTP discharges impounded treated effluent to Bloods Creek during times of high flow in the winter months and to land through spray irrigation during the summer months. The permit (WDRs) applies limits only for conventional pollutants, pH, total coliform, chlorine residual. The permit adds toxics limits for copper based on the CTR, limits for iron and manganese, based on the 1996 Basin Plan, and a compliance time schedule including interim limits for copper.

Inspection – There was no inspection of the Bear Valley WWTP in FY06. The last report in the file was issued on November 23, 2004 for the inspection on November 5, 2004.

Data Review – There was no documentation that FY06 DMRs were received or reviewed.



Enforcement – The Central Valley RWQCB issued a TSO, current with the permit, to establish a compliance deadline and interim limits for iron and manganese. The Central Valley RWQCB also issued an NOV on April 4, 2006 for a December 30-31, 2005 spill of untreated sewage from the main pump station. The file did not include a copy of the NOV.

### **5.11 DR Horton, Western Pacific Series**

Stormwater – NPDES General Construction Stormwater Permit CAS000002

DR Horton filed a Notice of Intent ("NOI") in August 2005 for stormwater permit coverage associated with construction activity at the Browns Valley Subdivision in Solano County. Violations of the stormwater permit were identified through routine site inspections.

Inspection – The Central Valley RWQCB inspected the subdivision in February 2006 and documented the failure to implement effective erosion control BMPs and for the unmonitored discharge from a treatment unit to a tributary of Ulatis Creek. The report contains narrative and photographic findings. The Central Valley RWQCB conducted a follow-up inspection in March 2007.

Data Review – There are no DMRs.

Enforcement – In March 2006, the Central Valley RWQCB issued an NOV for the violations identified in the February 2006 inspection. The NOV required DR Horton to install BMPs, prevent the discharge of sediment-laden stormwater, and develop a monitoring plan. DR Horton responded to the NOV on March 29, 2006. On August 18, 2006, the Central Valley RWQCB issued a proposed ACLC for \$200,000 for the stormwater violations. The RWQCB settled the complaint and agreed to apply \$150,000 of the penalty to a SEP and \$50,000 to the State's Clean-up and Abatement Account.

### **5.12 Standard Pacific Homes, Portofino Subdivision**

Stormwater – NPDES General Construction Stormwater Permit CAS000002

The Portofino Subdivision is in Solano County. Violations of the stormwater permit were identified through routine site inspections. The subdivision was sold in March 2005 by Silverwing Development to Standard Pacific Homes, which became the legal owners in May 2006

Inspection – The Central Valley RWQCB inspected the subdivision on January 19, 2006 and found on-site personnel pumping ponded water from a lime-treated roadway directly to a storm drain. The inspectors measured a discharge pH of 11.0 s.u. The Central Valley RWQCB conducted a follow-up stormwater inspection on February 27, 2006 and found inadequate erosion control BMPs and silty discharges. The Central Valley RWQCB conducted a follow-up inspection in March 2007.

Data Review – There are no DMRs.



Enforcement – On March 1, 2006, the Central Valley RWQCB issued a proposed ACLC for \$10,000 to Silverwing Development for the maximum civil liability amount. Silverwing Development paid the fine. On March 10, 2006 the Central Valley RWQCB issued an NOV requiring effective sediment and erosion control BMPs. The response from Standard Pacific Homes did not include a required map of the BMPs.

### **5.13 PL Roseville, LLC, West Park Subdivision**

Stormwater – NPDES General Construction Stormwater Permit CAS000002

PL Roseville filed a Notice of Intent ("NOI") in March 2005 for stormwater associated with construction activity at the West Park Subdivision in Placer County. Violations of the stormwater permit were identified through routine site inspections.

Inspection – The Central Valley RWQCB inspected the subdivision on December 19, 2005 and found the discharge of silty stormwater from the West Park storm drain system to a tributary of Pleasant Grove Creek. The RWQCB also observed silty discharges during inspections on March 23, 2006 and April 13, 2006 and on numerous other days from December 2005 through April 2006.

The Central Valley RWQCB conducted a follow-up inspection in March 2007.

Data Review – There are no DMRs.

Enforcement – On December 27, 2005, the Central Valley RWQCB issued an NOV. On March 23, 2006, the Central Valley RWQCB responded to a spill from one of the West Park advanced stormwater treatment systems into Coyote Creek. Under the direction of the California Fish and Game Department, PL Roseville cleaned portions of the creek. On April 12, 2006, the Central Valley RWQCB issued a second NOV that required corrective actions to address the spills from the advanced stormwater treatment system. On the next day, April 13, 2006, the Central Valley RWQCB responded to another spill from another West Park advanced stormwater treatment systems into Pleasant Grove Creek. Once again, under the direction of the California Fish and Game Department, PL Roseville cleaned-up the impacted portions of the creek. Consequently on July 21, 2006, the Central Valley RWQCB proposed an ACLC for \$900,000. In a January 27, 2007 settlement agreement, the RWQCB agreed to a \$700,000 penalty and to apply \$500,000 of the penalty to a SEP and \$200,000 to the State's Clean-up and Abatement Account.

### **5.14 Placer County, Applegate WWTF**

Non-NPDES Unpermitted Spills - Non-15 Land Disposal WDRs

The Applegate WWTF serves a very small community (<30 connections) and is a three-pond sewage treatment system for the land disposal of treated domestic wastewaters through percolation and evaporation, with disinfection between ponds 2 and 3. The Applegate WWTF has a design capacity of 0.010 mgd but averages 0.011 mgd dry weather flow. There is groundwater inflow into pond 3 at a rate great enough to overtop the pond without any



contributions of sewage. The overflow discharged by emergency overflow spillway into tributary to Clipper Creek. The Applegate WWTF overtopped into Clipper Creek on many occasions from 1996 to 2006. Placer County closed all connections to the ponds and now periodically hauls by truck the contents of storage tanks to the Placer County SMD No.1 WWTP outside of Auburn.

Inspection – No inspections in FY06.

Data Review – The self-monitoring reports are kept in a separate folder from the permit files and were not reviewed during this State Review.

Enforcement – The Central Valley RWQCB issued a NOV in 1997 and a CAO in 2001. However, Placer County could not complete the work due to financial constraints. Placer County obtained funding in 2004 and started work. The Central Valley RWQCB issued a proposed ACLC for \$300,000, reduced to \$82,000, of which \$16,000 was paid in December 2006 and the remainder suspended until proof of progress. On March 14, 2006, the Central Valley RWQCB also issued an NOV for a spill from a storage tank. Full compliance was reached in October 2006 upon closure of all connections to the ponds and decommissioning of the ponds.

## **5.15 St. Gregory's Olive Oil**

Non-NPDES - Non-15 Land Disposal WDRs

The St. Gregory's Olive Oil Farm is an olive farm and olive oil producer. St. Gregory received a waiver from the WDRs under general resolution order R5-2003-0106 for small food processors.

Inspection – No inspection in FY06.

Data Review – There are no DMRs. The Central Valley RWQCB identified the failure to submit an annual report.

Enforcement – On July 28, 2006, the Central Valley RWQCB issued an NOV to St. Gregory's for failing to submit an annual report. The NOV required submittal of the annual report by September 30, 2006, which was submitted on August 3, 2006.

## **5.16 El Dorado Irrigation District, Rancho Ponderosa WWTF**

Non-NPDES Unpermitted Spills - Non-15 Land Disposal WDRs

The Rancho Ponderosa WWTF is a dual pond sewage treatment system for the land disposal of treated domestic wastewaters through percolation and evaporation. The permit prohibited discharge to surface waters. On February 16, 2006, the District notified the Central Valley RWQCB of seeps found outside the containment berms entering Kelly Creek.



Inspection – The Central Valley RWQCB inspected the Rancho Ponderosa WWTF on March 24, 2006. The District submitted plans to mitigate seepage.

Data Review – The DMRs noted seepages through the construction of the cut-off trench.

Enforcement – On May 26, 2006, the Central Valley RWQCB issued a CAO requiring daily inspections until a permanent cut-off trench was completed on November 2, 2006.

**Sacramento Metropolitan  
Air Quality Management District (SMAQMD)  
Enforcement Program State Review Framework**

**Final Report – December 31, 2007**

**Conducted by the  
U.S. Environmental Protection Agency  
Air Enforcement Office  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105**

## **EXECUTIVE SUMMARY**

### **Inspection Implementation** (Elements 1, 2 & 3)

CAA — SMAQMD is doing an excellent job of inspection coverage and meeting its CMS targets.

### **Enforcement Activity** (Elements 4, 5, 6, 7 & 8)

CAA — EPA is impressed by the consistency of the District's penalty process. We think it is both firm and fair to the regulated community and that it saves the District resources that would otherwise be expended in negotiations.

### **Commitments in Annual Agreements** (Element 9)

CAA — The District successfully met all of their CMS commitments, except as otherwise outlined in this report.

### **Data Integrity** (Elements 10, 11 & 12)

CAA — A review of AFS for 128 CMS actions (tests, certs, FCEs) with dates of entry shows that 62.5% (80 of those actions) were entered more than 60 days after occurrence. SMAQMD should report all actions to AFS within 60 days of occurrence.

## **BACKGROUND**

### **Sacramento Metropolitan Air Quality Management District (SMAQMD)**

Sacramento County is 965 square miles and has a population of 1,374,724 (US Census 2006 estimate). The County is designated nonattainment for PM10 and ozone (1-hr and 8-hr). Stationary source emissions constitute a relatively small portion of the emission inventory for the County: 4% of NOx (mobile = 93%), 12% of VOC (mobile = 64%), 9% of PM2.5 (area = 69%).

The SMAQMD is responsible for regulating stationary sources of air pollution in Sacramento County. The Executive Office of the SMAQMD includes the Air Pollution Control Officer (Executive Director), who is responsible for management of the SMAQMD, and the District Counsel.

The SMAQMD is governed by a fourteen-member Board of Directors composed of all five Sacramento County Supervisors, four members of the Sacramento City Council, and five

members representing suburban cities. The Board reviews and approves all SMAQMD rules, programs and budgets.

The SMAQMD is organized in five divisions:

The Administration Division provides fiscal oversight of the SMAQMD's programs, and handles contracts, human resource management, public information requests, and computer and telecommunication systems.

The Mobile Source Division develops and implements market-based innovative programs to reduce emissions from on- and off-road mobile sources in Sacramento.

The Program Coordination Division includes planning and emissions inventory, as well as air monitoring, emission reduction credit bank, and rule development.

The Strategic Planning Division includes public outreach, long-term planning, communication, and legislative and interagency liaison activities.

The Stationary Source Division includes the Permit Section, which handles local air quality permits, federal Title V permits, and the air toxics program, and the Field Operations Section, which handles compliance and enforcement activities. The Stationary Source Division includes 32 staff and manager positions in addition to the Division Manager. Of these, 18 reside in the Field Operations Section and constitute the District's compliance and enforcement staff.

## **SRF FILE REVIEW**

**On-Site Review Dates:** 8/14/07 and 8/15/07, at the SMAQMD offices

**Program Evaluated:** Clean Air Act, Federal Fiscal Year 2006

**Information Sources Included in the Review:**

- SMAQMD inspection and enforcement files
- management and staff interviews
- EPA databases, primarily AFS and SRF
- SMAQMD database and documents, including “Compliance Monitoring Strategy Data Entry Procedures (11/02)”, “NOV/NTC Guidance” (5/03), and “Revision to Guidelines for Scoring Aggravation and Mitigation Factors” (12/05)

**Inspection Files Reviewed:**

1) Aerojet General (0606710006)	FCE 8/17/06
2) Chevron USA (0606700055)	FCE 2/06/06
3) D and T Fiberglass (06067800956)	FCE 2/28/06
4) Grafil (0606700487)	FCE 8/10/06

5) Proctor and Gamble (0606700191)	FCE 8/24/06
6) Sacramento Cogen (0606701156)	FCE 4/18/06
7) County of Sacramento, Keifer Landfill (0606700360)	FCE 9/29/06
8) Santa Fe Pacific Pipelines (06067)	FCE 5/10/06
9) A. Teichert (0606700257)	FCE 9/26/06
10) C.N. Jolly Cabinets (0606701073)	FCE 2/08/06

**Enforcement Files Reviewed:**

1) Proctor and Gamble (0606700191)	Addressing Action 12/16/05
2) County of Sacramento, Keifer Landfill (0606700360)	Addressing Action 7/18/06
3) Grafil (0606700487)	Addressing Action 7/18/06
4) Aerojet (0606710006)	Addressing Action 4/28/06

Inspection and enforcement files were randomly selected by EPA reviewers.

<b>EPA On-Site Reviewers:</b>	Douglas McDaniel, Chief, R9 Air Enforcement	415-947-4106
	Mark Sims, R9 Air Enforcement	415-972-3965
	John Borton, R9 Air Enforcement	415-972-3985

<b>Primary SMAQMD Contact:</b>	David R. Grose, Manager, Stationary Source Division	916-874-4854
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**SRF ELEMENTS**

- 1) The degree to which the state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).**

SMAQMD's FY 06 AFS facility universe was:

- 15 majors
- 1 80% synthetic minor
- 5 other synthetic minors
- 3 minor sources with MACT applicability

SMAQMD's CMS targets in AFS were:

- a) 2 yrs for both majors and the 80% SM
- b) 5 yrs for the other SM's

Compliance program resources are primarily focused on minor and area sources (e.g. portable engines, gasoline dispensing facilities). Almost all sources are inspected annually, although the District is considering implementing a schedule requiring less frequent inspections for sources with excellent compliance records. Currently, the majority of major source compliance

evaluations are conducted by the same inspector. Inspections are almost always unannounced, and SMAQMD inspectors observe all source tests.

*Metric 1a. Major source FCE coverage in last two years (both CMS and AFS majors)*

SMAQMD conducted at least one FCE at 100% of the 15 major sources in FY05-06. This 100% coverage exceeds that national average of 82.7%. Their CMS and CAA major universes are identical.

*Metric 1b. Coverage of 80% Synthetic Minors (SM-80) in last five years*

SMAQMD completed an FCE at its one SM-80 (State of CA Publishing 0606700237) in FY06. This 100% coverage exceeds that national average of 86.1%.

*Metric 1c. Synthetic minor source FCE and reported PCE coverage in last five years (both CMS and AFS SM's)*

SMAQMD completed an FCE at all of the 5 “other SM” sources during FY06. Their CMS and CAA major universes are identical.

*Metric 1d. Minor source FCE and reported PCE coverage (both CMS and AFS SM's)*

Minor source FCE/PCE coverage is not required to be reported to AFS, except for sources subject to NSPS/MACT/NESHAP. SMAQMD has three MACT minor sources in AFS, and reported an FCE for one of them during FY06.

*Metric 1e. Investigations at CAA stationary sources*

None of the 44 state and local jurisdictions in Region 9 have agreed in their CMS plan to report investigations to EPA, citing confidentiality, security, and burden concerns. No investigations were reported by SMAQMD.

*Metric 1f – Title V self-certification reviews completed*

SMAQMD reviewed 14 Title V compliance certs for the 15 Title V majors. The other source, Consumnes Power Plant (0606711699), had not yet been issued its permit, thus no cert has been due. Therefore, this constitutes 100% coverage, which exceeds the national average of 83.5%. (Review of the SRF data is complicated by the fact the CN Jolly was marked by SRF as a Title V source even though it is a SM.)

*Metric 1g – Number of Sources with Unknown Compliance Status*

SMAQMD had no plants in unknown compliance status.

**Recommendations:**

None. The District is doing an excellent job of inspection coverage and meeting its CMS targets.

**2) The degree to which inspection/evaluation reports document inspection findings, including accurate identification of violations.**

Based on our file review, SMAQMD inspection files were well organized. Each facility file contained inspection reports, Title V compliance certifications, monitoring reports, correspondence, malfunction/deviation notifications, and enforcement records. Contents were filed chronologically.

**Recommendations:**

None. Files appeared to be complete and the reports well-written. They documented findings, and, where violations were found, contained NOV and settlement documentation.

**3) The degree to which inspection reports are completed in a timely manner, including timely identification of violations.**

All of the inspection reports we reviewed were written within a month of the inspection, usually within a week. Where violations were identified, they were identified in the inspection reports.

**Recommendations:**

None.

**4) The degree to which significant violations and supporting information are accurately identified and reported to EPA national databases in a timely manner.**

SMAQMD has issued approximately 400 Notices of Violation and 400 Notices to Comply each of the past several years.

*Metric 4a. High priority violation discovery rate, per FCE coverage*

Out of a universe of 15 FCE's, SMAQMD reported 5 HPVs (two of them were reported at the same facility – County of Sacramento Kiefer Landfill) in FY06. The discovery rate of four facilities with HPV's out of 15 FCE's (26.7%) exceeds the national average (9.9 %).

*Metric 4b. High priority violation discovery rate, per major source universe*

Same as metric 4a, as universe and coverage were identical.

*Metric 4c. No activity indicator (HPV)*

SMAQMD had no items with “no activity” to be explained for this element.

*Metric 4d. HPV reporting indicator*

All four of the formal enforcement actions were at facilities that had been reported as having HPV’s. This 100% rate exceeds the national average of 78.4%.

**Recommendations:**

None.

**5) The degree to which state enforcement actions include required corrective or complying actions (injunctive relief) that will return facilities to compliance in a specific time frame.**

SMAQMD places a strong priority on returning facilities to compliance. They obtained compliance on all five of the reported HPV’s we reviewed.

In fact, most facilities are returned to compliance before enforcement actions are concluded. SMAQMD inspectors generally issue Notices of Violation onsite at the time of inspection, and submit written inspection reports within 3-5 working days. The District does not issue the demand (penalty) letter until the facility has been documented as having come into compliance. In all the cases we reviewed, facilities had come into compliance before the enforcement action was concluded. We found this to be consistent with EPA’s HPV policy goals.

It should be noted that, because SMAQMD (like most CA air districts) first assures compliance and then initiates the mutual settlement process, and the AFS database indicates that a source is out of compliance until the enforcement action is concluded, AFS (ECHO) is generally giving inaccurate information when it indicates that sources in California are out of compliance.

**Recommendations:**

None.

**6) The degree to which a state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.**

In response to an observed violation, the District issues one of two instruments to notify the source: a Notice of Violation (NOV) or a Notice to Comply (NTC). NOV’s are resolved through the settlement process; NTC’s are non-penalty warning letters. California state law (Health and Safety Code Section 39150) requires that air districts issue NTC’s for certain minor violations.

SMAQMD has a clearly written policy (“NOV/NTC Guidance” 5/27/03) providing guidance to staff on when to issue a NOV or NTC for various violation types.

*Metric 6a. Timely action to address HPV sources*

Of the four sources with at least one full HPV month in FY06, two of them had HPV’s that took more than 270 days for the addressing action to occur (Procter & Gamble, Key #153 1/3/06 to 10/6/06, and Aerojet General, Key #119 7/13/05 to 4/28/06). This 50% is the same as the national average.

*Metric 6b. Timely action taken to address individual HPV pathways*

Per the AFS 653 report, of the 13 individual HPV pathways, four had yet to be addressed at the end of FY06 (none of those four had exceeded 270 days). Seven of the nine addressed pathways were addressed in less than 270 days (77%). The two that exceeded did so by a slim margin (277 days and 290 days).

*Metric 6c. No activity indicator (AFS universe)*

SMAQMD had no items with “no activity” to be explained for this element.

**Recommendations:**

SMAQMD should continue to seek to address its HPVs within the 270 day period that EPA recommends.

**7) The degree to which a state includes both gravity and economic benefit calculations for all penalties, appropriately using the BEN model or similar state model.**

We were impressed by the level of detail found in the files. All of the enforcement action files included a penalty calculation worksheet which specified the factors used to mitigate penalties from the maximum amounts allowed under the California Health and Safety Code. These mitigation factors are outlined in the District’s “Guidelines for Scoring Aggravation Factors (revised 12/16/05)” and they include, among other things, gravity, economic benefit and financial burden to the violator. We found these penalty calculation guidelines to be consistent with EPA guidance on the subject.

**Recommendations:**

None.

**8) The degree to which final enforcement actions collect appropriate economic benefit and gravity penalties in accordance with applicable penalty policies.**

The District has collected approximately \$750,000 in penalties each of the past two years, and is on track to collect close to \$1 million this year.

As noted above, the District calculates appropriate economic benefit and gravity penalties in accordance with applicable penalty policies. When settling these cases, SMAQMD generally considers the penalty amounts to be non-negotiable. In this respect, the District differs from many other state and local air enforcement programs. SMAQMD will revise penalties downward from those identified in the demand letter only if new, additional mitigating information is presented by the violator, which rarely happens. They have found, because penalties are consistently calculated and because the details of the penalty calculation are presented to the applicant, that to waver from the appropriate penalties would undermine their ability to treat violators consistently.

Ninety-five per cent of the District's enforcement penalty actions are settled by the compliance program in this manner. The other five per cent are referred to District counsel for resolution, which potentially involves litigation in the Superior Court for the State of California.

EPA is impressed by the consistency of the District's penalty process. We think it is both firm and fair to the regulated community and that it saves the District resources that would otherwise be expended in negotiations.

*Metric 8a . No activity indicator - penalties*

SMAQMD had no items with "no activity" to be explained for this element.

*Metric 8b. Penalties normally included with formal HPV enforcement actions*

Penalties are normally included with all HPV enforcement actions. All of the four HPVs (100%) included penalties - which was better than the 76.7% national average for this element (the penalties were \$85,200, \$31,920, \$660, and \$6,000). However, the AFS data incorrectly showed the \$31,920 penalty (County of Sacramento Kiefer Landfill) as being associated with the second of two addressing actions, and no penalty on the first. Therefore, the SRF retrieval did not show this enforcement action as being addressed with a penalty. SMAQMD should clarify why 2 AO addressing actions were entered in AFS for Keifer Landfill, since only one of them contains the final penalty amount in AFS.

**Recommendations:**

SMAQMD should clarify why 2 AO addressing actions were entered in AFS for Keifer Landfill, since only one of them contains the final penalty amount in AFS.

**9) The degree to which enforcement commitments in PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time), if they exist, are met and any**

**products or projects are completed.**

EPA Region 9 has no Performance Partnership Agreements or State Enforcement Agreements with its state and local agencies. The Regional Administrator, Deputy and Division Directors hold annual meetings with the environmental commissioners and directors of Region 9's state agencies to share priorities and strategies and to explore opportunities for partnership. One component of this partnership is the Compliance Monitoring Strategy (CMS) Plan that provides an agency's commitments for conducting FCE's (including inspections, Title V certification and source test reviews), identifying HPV's, and reporting such activities to AFS.

SMAQMD submitted an adequate CMS Plan for FY 2006 on July 22, 2005. They committed to target majors on a 2-year cycle and synthetic minors on a 5-year cycle.

In their CMS plan, SMAQMD also committed to reporting FCE's only when they have reviewed all necessary reports and records, including Title V certifications, excess emission reports and other documents, physically visited the facility and reviewed facility records and operating logs, assessed control devices and reviewed stack tests. Our file review indicated that SMAQMD had performed all of these elements for their reported FCE's. Also, it should be noted that the District is reporting the PCE elements to AFS in a timely manner.

The District successfully met all of their CMS commitments, except as otherwise outlined in this report.

**Recommendations:**

None. The District successfully met all of their CMS commitments, except as otherwise outlined in this report.

**10) The degree to which the Minimum Data Requirements are timely.**

The national standard for AFS data timeliness is 60 days, per the 2005 "Information Collection Request" (ICR) approved by OMB on June 5, 2005. This standard has also been incorporated into EPA's AFS Business Rules and CMS plan documents.

A review of AFS for 128 CMS actions (tests, certs, FCEs) with dates of entry shows that 62.5% (80 of those actions) were entered more than 60 days after occurrence.

*Metric 10a. Timely entry of HPV data*

Of the five HPVs that qualified for review under this measure, the SRF database indicates that all were entered within 60 days of Day 0.

**Recommendations:**

A review of AFS for 128 CMS actions (tests, certs, FCEs) with dates of entry shows that 62.5% (80 of those actions) were entered more than 60 days after occurrence. SMAQMD should report all actions to AFS within 60 days of occurrence.

## **11) The degree to which the Minimum Data Requirements (MDR's) are accurate.**

*Metric 11a. Number of HPVs/Number of non-compliant sources*

Per the SRF data, of the 4 sources with HPVs that qualified for this metric, all (100%) had appropriate compliance statuses. The national average is 99.0% for this measure.

*Metric 11b(1). Stack test results at federally-reportable sources (% without pass/fail results)*

The SRF data showed 12 of the 34 relevant stack test actions to be lacking pass/fail result codes. These twelve showed a “99” (pending) value. However, when we checked this data against AFS, we found that all tests (100%) had been updated with a pass/fail value. All of their tests had the required pass/fail result codes in AFS by the time of our onsite review.

*Metric 11b(2). Stack test results at federally-reportable sources (number of failures)*

AFS showed 11 failed tests. Five of the 11 failed tests were linked as HPVs. This is a potential problem, as a failed test is an HPV if it is for the pollutant for which the facility is major. After further review, we learned that SMAQMD did not enter the pollutant codes for the tests; therefore, we were unable to ascertain whether more of them should have been linked to HPV's. SMAQMD should enter the pollutant codes for all stack tests to ensure the accuracy of data.

### **Recommendations:**

SMAQMD should enter the pollutant codes for all stack tests to ensure the accuracy of data.

## **12) The degree to which the Minimum Data Requirements (MDR's) are complete.**

*Metric 12a. Title V universe is accurate*

There were 15 AFS majors, and all 15 had the “V” air program code.

*Metric 12b. State agrees with source count*

SMAQMD agreed with the source count (15 majors, 6 synthetic minors and 0 NESHAP minors).

*Metrics 12c through 12i.*

Based on our file reviews and our review of SMAQMD's internal data system, we found no data completeness issues with regard to subprograms, compliance monitoring, historical non-compliance, NOV's, HPV's, formal actions, and assessed penalties.

*Metric 12j. Number of major sources missing CMS targets*

There were no major sources missing CMS targets.

**Recommendations:**

None. SMAQMD is doing a fine job of providing complete data to AFS.

**San Joaquin Valley  
Air Pollution Control District (SJVAPCD)  
Enforcement Program State Review Framework**

**Final Report – December 31, 2007**

**Conducted by the  
U.S. Environmental Protection Agency  
Air Enforcement Office  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105**

## **EXECUTIVE SUMMARY**

### **Inspection Implementation** (Elements 1, 2 & 3)

CAA — SJVAPCD conducted at least one FCE at all 191 major sources during FY 2005-06. This rate of 100% exceeds the national average of 82.7%.

### **Enforcement Activity** (Elements 4, 5, 6, 7 & 8)

CAA — We found the District's penalty guidelines to be consistent with EPA guidance on the subject. However, we noted that the multiplier for the ability to pay factor varied up to a maximum of only five. Given that the District takes enforcement action against some very small "mom and pop" operations as well as some very large corporations, we believe this could potentially result in inappropriately small penalties for some larger violations. We understand that the District is currently in the process of analyzing the deterrent value of their existing penalty structure as it applies to larger companies. We recommend that the District continue their analysis, in order to ensure that penalties are contributing to improved compliance.

CAA --- In FY06, the District's mutual settlement group had a backlog of 1200 cases – this meant that settlement letters were sometimes going out six or seven months after the violation was noted. Over the past two years the District made a major effort to reduce this backlog, which was down to 150 cases at the time of our review. EPA believes that this problem has been resolved, and is impressed with the District's significant reduction of the mutual settlement backlog.

### **Data Integrity** (Elements 10, 11 & 12)

CAA — Our review of 5,161 AFS actions (tests, certs, FCE's, and PCE's) from FY06 shows that 3,308 were entered within 60 days of occurrence. This 64.1% rate exceeds the national average of 42.4%.

CAA --- The SRF data showed SJVAPCD reported a total of 2,338 source tests via their automated system in FY06. All these records included pass/fail values, so none (0%) were missing the results codes. This rate was far better than the national average (15.6%). This result shows the value of the automated upload program, as using edit checks and required fields ensures valid result values routinely on every record.

## **BACKGROUND**

### **California**

The state of California consists of 156,000 square miles and has a population of 36,457,549 (US Census 2006 estimate). California local governments have been regulating air emissions since the 1940's.

State law has established thirty-five local air pollution control districts in California. These range from small, single-county districts to large multi-county agencies such as the San Joaquin Valley, Bay Area and South Coast Districts. The districts are governed by Boards consisting primarily of elected officials, and are responsible for, among other things, control of stationary sources of emissions. While mobile source emissions are mostly controlled by state and federal regulations, local districts do have authority to implement control measures that affect transportation sources, including automobiles.

The California Air Resources Board (CARB) develops state-wide air regulations and implements and oversees a variety of programs, including research, mobile source enforcement, fuels, diesel, nationally-recognized air compliance training, and ongoing district audits.

The districts' stationary source permitting, compliance and enforcement programs are essentially independent of state oversight. CARB has a stationary source enforcement program, including inspections, and does some enforcement<sup>1</sup>, but the district programs are overseen by their individual boards.

California has the most comprehensive and stringent set of air pollution control regulations in the country. The California Clean Air Act contains ambient air quality standards that are significantly more stringent than the NAAQS, and many state and district regulations are designed to attain these more stringent standards. Also, due to the severity of longstanding ozone nonattainment problems, many districts have adopted exceptionally protective VOC and NOx SIP regulations. For example:

- Federal Leak Detection and Repair requirements define a valve leak at 10,000 parts per million, while the Bay Area's rule defines it at 100 ppm.
- The federal NSPS for gas turbines has a NOx limit of 75 ppm. San Joaquin Valley APCD's limit for all existing turbines is 3 ppm.
- The federal NSPS for cement kilns does not limit NOx emissions or require NOx CEMS. Mojave Desert's NOx SIP rule does both. Mojave has three of the ten largest cement plants in the U.S.
- San Joaquin Valley requires BACT for new/relocated/modified emission units with a PTE greater than two pounds per day, covering a great many modifications that would be considered minor for federal purposes.

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<sup>1</sup> CARB can obtain jurisdiction to enforce district rules on a case-by-case basis from the CA Attorney General.

The capacity of California air pollution control programs far exceeds that of any other state in the union. Here is a compilation of enforcement information for eleven of the largest<sup>2</sup> California air districts:

	2002	2003	2004
<u>Resources</u>			
Total Agency Budgets	\$215,815,401	\$235,010,422	\$245,026,557
Enforcement Budgets	\$52,682,023	\$55,501,172	\$59,877,442
Field Enforcement Staff	338	337	336
Total Enforcement Staff	555	555	560
Over the three year period, 233,232 inspections were conducted.			

#### NOVs and Civil Penalties

Total NOVs Issued	8,479	8,365	8,027
Total Civil Penalties	\$12,298,799	\$10,512,584	\$21,357,571
Total Title V NOVs Issued	1,175	1,013	1,051
Total Title V Penalties	\$8,937,084	\$4,219,689	\$15,259,700

For comparative purposes, the state of Florida's air pollution control budget is approximately \$41 million, and the state of Pennsylvania's is approximately \$46 million.

#### **San Joaquin Valley Air Pollution Control District (SJVAPCD)<sup>3</sup>**

Along with the South Coast Basin, the San Joaquin Valley (SJV) has the worst air quality in the nation. SJV typically competes with the Los Angeles basin for the most number of days recorded over the 8-hour ozone standard and SJV and Los Angeles are the only two areas in the nation that exceed the PM-2.5 24-hour standard.

The SJV is surrounded by mountain ranges on three sides: the Sierra Nevada to the east, the Coastal Range to the west, and the Tehachapi to the south. The fourth side is open to the Sacramento Valley and the San Francisco Bay, and prevailing winds cause the SJV to be impacted by air pollution transport from the Bay Area.

The SJV is currently home to more than 3 million people and is the fastest growing region in California with bedroom communities encroaching from Sacramento and the Bay Area in the north and Los Angeles in the south. The SJV is a major north/south transportation corridor on the

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2 Bay Area, Mojave Desert, Monterey Bay, Sacramento, San Diego, San Joaquin Valley, San Luis Obispo, Santa Barbara, South Coast, Ventura, and Yolo Solano. These eleven districts represent 93% of California's population. This information was compiled by the California Air Pollution Control Officers Association (CAPCOA) and is not verified.

3 The information provided in this section is intended to supplement Elements 1 through 12 in addressing the goals of OECA's CAA Compliance Monitoring Strategy evaluation process.

West Coast with two major freeways, I-5 and Highway 99, and heavily utilized rail routes. Industrial activity includes oil refining, oil and natural gas production, electricity generation, glass manufacturing, and food processing. However, its most significant economic activity is agricultural production. The SJV has over 2.5 million dairy cattle and 25,000 farms which use more than 4,500 diesel irrigation engines to provide the water to irrigate over four million acres of crops in this arid region.

In the summer, the SJV often experiences triple digit temperatures, and receives no cloud cover or rainfall, leading to significant ozone formation. In the winter, an inversion layer can settle in for weeks at a time creating the noxious “Tule Fog” and trapping primary and secondary particulate matter on the valley floor.

The San Joaquin Valley Air Pollution Control District is made up of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and the Valley portion of Kern. This area consists of approximately 24,000 square miles and has a population of approximately 3,632,000 (US Census 2006 estimate). In order to more effectively address the Valley’s significant air quality problems, the District was unified 15 years ago; previously the counties had been represented by their own air pollution control agencies.

The District’s headquarters office is in Fresno, with regional offices in Modesto and Bakersfield. The District has a state of the art communications and video conferencing system which allows for timely dialogue between the three offices and reduces the need for expensive and inefficient travel.

District staffing has been steadily increasing, and is currently at 291 positions. The District’s Compliance Division consists of 81 staff, including 66 field personnel. The District’s operating budget for FY06 is \$89,764,000.

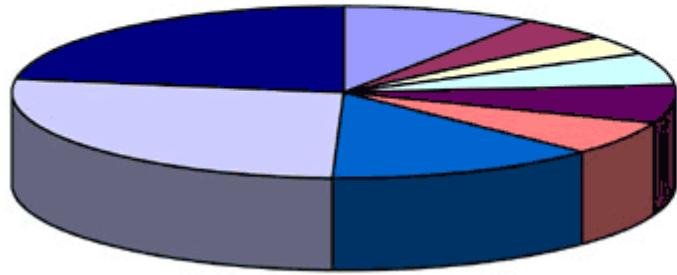
The District is governed by an eleven member Board consisting of representatives from the Board of Supervisors of all eight counties and three Valley city representatives.

There are 191 major sources in the District, representing approximately 20% of the state’s total. However, there are a total of 13,523 regulated facilities in the District, with a total of 30,538 permits.

As illustrated in this graphic from the District’s website, stationary source emissions constitute a relatively small portion of the emission inventory for the District:

## Sources of Smog-Forming Emissions San Joaquin Valley, 2006

(data source: o3sip 1.04 RF 976)



Fuel Combustion from Stationary Sources	10%
Petroleum	4%
Industrial Processes	4%
Solvents/Consumer Products	6%
Farming Operations (non-mobile)	7%
Other	6%
Autos and Light Trucks	13%
Heavy Duty Trucks	27%
Other mobile	23%

Emissions of reactive organic gases and oxides of nitrogen  
Estimated by California Air Resources Board

Accordingly, according to the Compliance Division's internal database, field staff time was expended as follows:

<u>Program</u>	<u>% of Hours</u>
Minor Sources	20.3%
Gasoline Dispensing	14.7%
Title V Sources	13.4%
Agric. Burning	11.6%
Asbestos	5.5%
Open Burning	5.2%
Fugitive Dust	5.0%
Other programs include portable equipment, fireplace surveillance, and non-field work	

In 2002 the California Legislature eliminated the state's agricultural exemption from environmental regulation, dramatically increasing the District's compliance workload. Furthermore, a new PM-10 SIP measure requires Conservation Management Plans – individual enforceable dust control plans - from 6,063 farms in the Valley. In addition, the recent downgrading of the area's ozone nonattainment status from severe to extreme is expected to double the District's Title V source universe, from 191 to approximately 400.

These factors, along with other growing and critical programs such as the Carl Moyer engine replacement program and the Indirect Source Review program are creating an ever-increasing workload for the Compliance Division. The District has responded admirably, increasing the Division's staff from 31 in 2000 to 81 in 2006.

Current management is also working to increase the percentage of time inspectors spend in the field. At current staffing levels, if their inspectors average 2% more time in the field, then that is equal to hiring one new inspector. In the past year, the Division has increased field time by 4%.

Despite these efforts, it is clear to the reviewers that the Compliance Division is faced with an increasingly overwhelming amount of high priority work, and that more staff will be needed in order to perform this work effectively. For example, the District would like to target each of the farms with Conservation Management Plans for inspections at least once every five years, but does not have the capacity to do so.

The SJVAPCD computerized tracking system is very impressive, providing management and staff with immediate access to all plant information, applicable permit conditions, compliance and enforcement histories, documents, and violation details, as well as the ability to track staff hours spent on various program tasks.

The batch uploading process automatically dials the EPA mainframe, navigates the AFS and HOD mainframe screens, and submits pre-formatted batches with exceptional sophistication. We were pleased to learn that SJVAPCD plans to share what it can of the technology, logic, and other custom technical elements with EPA and other AFS users. A few weeks after our evaluation, SJVAPCD presented an overview of the system at the national AFS conference and impressed many seasoned AFS users with the groundbreaking success in this new vision of how batch might be more automated than anyone had previously imagined.

There are a number of data-related problems noted in this report. However, most of these are due to the process of working out the kinks in this new batch uploading system, which was first used in July 2006. EPA is confident that the new system will effectively resolve these issues.

## **SRF FILE REVIEW**

**On-Site Review Dates:** 7/24-26/07, at the SJVAPCD Fresno office

**Program Evaluated:** Clean Air Act, Federal Fiscal Year 2006

**Information Sources Included in the Review:**

- SJVAPCD inspection and enforcement files
- Management and staff interviews
- EPA databases, primarily AFS and SRF
- SJVAPCD databases, website and documents, including “Compliance Monitoring Strategy Plan (3/22/06), “Policy for District Compliance Staff responding to Title V Issues” (2/8/07), “File Standards for Submittal of Annual Title V Certification Data in Electronic Format” (8/23/06, revised draft) and “Mutual Settlement Guidance Schedule” (6/18/07)
- CA ARB “San Joaquin Valley Air Pollution Control District Program Review Report of Findings and Recommendations” (11/4/05)

**Inspection Files Reviewed:**

1) 06029S0498	American Yeast	Major	Bakersfield, CA	FCE 10/25/05
2) 06029S1131	Chevron USA	Major	Kern River, CA	FCE 03/06/06
3) 06029S3317	Chevron USA	Major	Bakersfield, CA	FCE 01/12/06
4) 06077N0238	Corn Products	Major	Stockton, CA	FCE 03/01/06
5) 06029S3079	Crimson Resources	Major	Bakersfield, CA	FCE 03/06/06
6) 06077N1002	Lodi Metal Tech	Major	Lodi, CA	FCE 01/12/06
7) 06047N3941	Malibu Boats	Major	Merced, CA	FCE 10/18/05
8) 06029S0091	Mt Poso Cogen	Major	Bakersfield, CA	FCE 05/03/05
9) 06019C0036	Pactiv Corp	Major	Fresno, CA	FCE 03/07/06
10) 06029S0377	Paramount Farms	Major	Lost Hills, CA	FCE 03/06/06
11) 06077N0770	Ripon Cogeneration	Major	Ripon, CA	FCE 02/16/05
12) 06099N2174	Silgan Containers	Major	Riverbank, CA	FCE 10/18/05
13) 06039C0801	St-Gobain Containers	Major	Madera, CA	FCE 03/07/06
14) 06099N3299	Turlock Irrigation	Major	Modesto, CA	FCE 08/22/06
15) 06029S1329	Hunter Edison Oil	SM	Edison, CA	FCE 01/03/03
16) 06029S1329	Hunter Edison Oil	SM	Edison, CA	FCE 01/07/03

**Enforcement Files Reviewed:**

1) 06099N2253	Ball Western Can	Major	Oakdale, CA	Dist Day Zero 01/06/06
2) 06029S1246	Berry Petroleum	Major	Taft, CA	Dist Day Zero 05/05/06
3) 06029S2918	Crimson Resource	Major	Bakersfield, CA	Dist Day Zero 09/08/06
4) 06029S0724	DAI Oildale (Dexel)	Major	Bakersfield, CA	Dist Day Zero 10/24/05
5) 06029S0033	Equilon Enterprises	Major	Bakersfield, CA	Dist Day Zero 05/05/06
6) 06029S0091	Mt Poso Cogen	Major	Bakersfield, CA	Dist Day Zero 08/28/06
7) 06019C0948	PPG Industries	Major	Fresno, CA	Dist Day Zero 07/24/06
8) 06077N0770	Ripon Industries	Major	Ripon, CA	Dist Day Zero 09/08/06
9) 06077N0802	Stockton Cogen	Major	Stockton, CA	Dist Day Zero 05/23/06
10) 06029S0075	AES Delano	Major	Delano, CA	Dist NOV 09/11/06
11) 06031C0195	CA Dept Corrections	Major	Avenal, CA	Dist NOV 10/13/05
12) 06029S2010	Chevron USA-Taft Light	Major	Taft, CA	Dist NOV 01/25/06
13) 06099N2107	Darling International	Major	Crows Landing	Dist NOV 09/19/06
14) 06099N1662	Gallo Glass Inc	Major	Modesto, CA	Dist NOV 07/03/06

15) 06029S0382 Occidental of Elk Hills	Major	Tupman, CA	Dist NOV	02/22/06
16) 06031C2106 US Naval-Lemoore	Major	Lemoore, CA	Dist NOV	08/31/06

Inspection and enforcement files were randomly selected by EPA reviewers.

<b>EPA On-Site Reviewers:</b>	Douglas McDaniel, Chief, R9 Air Enforcement Robert Lischinsky, OECA/OC Mark Sims, R9 Air Enforcement John Borton, R9 Air Enforcement	415-947-4106 202-564-2628 415-972-3965 415-972-3985
<b>Primary APCD Contact:</b>	Jon Adams, Director of Compliance	599-230-5965

### **SRF ELEMENTS**

**1) The degree to which the state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).**

SJVAPCD's FY 06 facility universe was:

191 majors (SRF showed 196; 4 proved to be misclassified SMs, 1 major was shut down.  
 Two of the 191 were pending their Title V permits, total 189 operating majors.)  
 67 SM 80's  
 88 Other synthetic minors  
 7 federally-reportable minor sources

SJVAPCD committed to annual FCE's in their Compliance Monitoring Strategy (CMS) for all majors, and all synthetic minors.

*Metric 1a. Major source FCE coverage in last two years (both CMS and AFS majors)*

SRF showed SJVAPCD conducted at least one FCE at 167 of the 196 SRF major sources in the two year period (FY05-06) covered by this metric. That represented an 85.20% coverage rate, which exceeds the 82.7% national average. (As noted above, the corrected major universe is actually now known to be 191.)

When we shared the SRF results, SJVAPCD said they'd completed more major FCEs than SRF was displaying. A review of the District's internal data system revealed that some data had not been uploaded to AFS; SJVAPCD provided the missing data to AFS while this report was in development. SJVAPCD has reported 334 FCEs for the 2 year period (FY05/FY06), including coverage at all 191 majors, so the corrected coverage rate is 100% for this universe.

During FY06 SJVAPCD transitioned to the new data system and also lost their AFS person, which explains why SJVAPCD did not discover the automated coding problem sooner. The District has now hired a new staff person who will be working half-time solely on data.

*Metric 1b. Coverage of SM-80s in last five years*

SRF reported SJVAPCD completed one FCE at their 67 SM80's in the 5 year period for this metric. This calculated to a rate of only 1.49%. SJVAPCD's internal data showed a far higher number of FCE's completed. After the missing updates and other data was entered, there were 68 FCE's done at these sources over the 5 year period and all 67 sources had been covered. This rate of 100% is substantially better than the national average (86.5%).

*Metric 1c. All synthetic minor (80% and other SM) source FCE and reported PCE coverage in last five years*

This metric counts all SMs and includes both FCEs and PCEs. SRF included 508 actions at 154 SMs. Once the previously mentioned updates were made, the corrected combined SM universe was 155 sources. The total number of FCE and PCE actions over the 5 year period was 674 actions providing coverage at all 155 sources (100% coverage).

*Metric 1d. Minor source FCE and reported PCE coverage*

Minor source FCE/PCE coverage is not required to be reported to AFS, except for sources subject to NSPS/MACT/NESHAP. Per the SRF SJVAPCD has seven minor sources in AFS and reported an FCE at four of its minor sources in AFS.

*Metric 1e. Investigations at CAA stationary sources*

None of the 44 state and local jurisdictions in Region 9 have agreed in their CMS plan to report investigations to EPA, citing confidentiality, security, and burden concerns. SJVAPCD had 1515 investigations identified by SRF, but we found a typo in the District's batch extraction routine was marking some PCEs as investigations. SJVAPCD is extracting and recoding all of these as PCE's.

*Metric 1f – Title V self-certification reviews completed*

The SRF reported SJVAPCD reviewed 49 of 171 Title V compliance certifications. (No one is sure why SRF only counted 171 of the 191 SJVAPCD operating Title V universe within this measure as the denominator, We confirmed all 191 Title V majors have air program V and are major in AFS, so that is the Title V source universe we will use throughout this report.) AFS shows that SJVAPCD reviewed Title V certifications in FY06 for 42 Title V sources. This is a coverage rate of only 21.98% and is far lower than the national average of 83.5%.

It should be noted that in FY07 they reviewed an additional 345 certifications at 141 major sources (which is still only 73.82% of their entire Title V universe). SJVAPCD explained that

some of the FY06 certifications were reviewed in FY07. They are rechecking their internal coding logic since it remains possible that some reviewed certifications were either not entered into their internal database or may have failed to update to AFS (similar to other upload logic issues). SJVAPCD assured us that as part of their FCE process they do review the certifications and thus this data should be present in both their internal system and AFS. Since we now know they have confirmed 100% FCE coverage of their majors & SMs, it is most likely this discrepancy too will turn out to be a software glitch and will likely be easily remedied.

*Metric 1g – Number of Sources with Unknown Compliance Status*

SJVAPCD had no plants that triggered “unknown compliance status” in AFS.

**Recommendations:**

SJVAPCD needs to do better quality assurance and improve the completeness of its automated extractions and uploads. Running AFS reports and comparing them against the internal data is our recommended solution to help find and correct these sorts of problems more quickly. We recommend SJVAPCD run several AFS reports monthly or more often as needed. Instruction on using the #659 and the ad-hoc universe, CMS, and HPV reports are all available from the Region or from the AFS Helpline.

We also recommend SJVAPCD develop the internal reports they said they are planning, which will assist them in performing quality assurance on what their staff are entering in their local system. This is needed in case inspectors are failing to list the Title V certification reviews, or other minimum data elements.

SJVAPCD has an outstanding internal tracking system that is almost completed. SJVAPCD has taken the initiative to find ways to have its system, which includes comprehensive permitting and compliance information on every source, automatically retrieve the data elements of interest to EPA and batch load and report them to AFS. Once completed, this could be a model for other agencies. During the 2007 National AFS Conference SJVAPCD presented an overview of its tracking system. As a result of the interest of other state personnel, OECA will be hosting a national website where this and other successful state/local interface techniques and designs will be shared nationally.

**2) The degree to which inspection/evaluation reports document inspection findings, including accurate identification of violations.**

Based on our file review, SJVAPCD inspection files were well organized and properly documented inspection findings. Each facility file is maintained electronically in the District's computer system. The system contains inspection reports, Title V compliance certifications, monitoring reports, correspondence, malfunction/deviation notifications, and enforcement records with summary data fields as well as actual content and scanned copies of submitted documents. Contents were filed chronologically by plant and by type.

**Recommendations:** None.

**3) The degree to which inspection reports are completed in a timely manner, including timely identification of violations.**

Of the 16 inspection reports we reviewed, 11 were completed within 30 days. EPA recognizes that the District is trying to maximize field time for its inspectors; however, we believe that inspections reports should usually be completed within 30 days, so that the inspector's observations are recorded when they are still fresh in memory, and management review and appropriate follow-up can occur in a timely manner.

**Recommendations:** The District has its own policy, which calls for inspection reports to be completed within seven days and reviewed by the supervisor within an additional seven days. The District should work to successfully implement this policy.

**4) The degree to which significant violations and supporting information are accurately identified and reported to EPA national databases in a timely manner.**

*Metric 4a. High priority violation discovery rate, per FCE coverage*

The SRF indicated 73 new SJVAPCD HPVs discovered in FY06 per 160 FCE's, for a discovery rate of 45.62%. This substantially exceeds the national average of 9.9%.

The national 659 report pulled in September 2007 represents the most current view of the SJVAPCD's FY06 updated efforts. It shows 78 new SJVAPCD HPV added to AFS in FY06. Thus the FY06 discovery rate was 48.75%, which is higher than the national average. SJVAPCD has a robust HPV discovery program.

*Metric 4b. High priority violation discovery rate, per major source universe*

This metric compares the major source universe (191 plants) with any majors that had at least 1 HPV (35 major plants with at least 1 HPV). This HPV discovery rate is 18.32%, significantly higher than the national average of 4.8%.

*Metric 4c. No activity indicator (HPV)*

SJVAPCD had no items with "no activity" to be explained for this element.

*Metric 4d. HPV reporting indicator*

SRF indicated that 57 of the 78 HPVs discovered in FY06 were at a plant with a prior HPV. This rate of 78.1% is near the national average of 78.4%.

**Recommendations:** None. SJVAPCD is doing a good job of discovering and reporting HPVs to AFS.

**5) The degree to which state enforcement actions include required corrective or complying actions (injunctive relief) that will return facilities to compliance in a specific time frame.**

SJVAPCD places a strong priority on returning facilities to compliance. They obtained compliance on all 16 of the enforcement cases we reviewed.

In fact, most facilities are returned to compliance before enforcement actions are concluded. SJVAPCD inspectors generally issue Notices of Violation onsite at the time of inspection, and do not submit their written inspection reports until the facility has come into compliance. The District's mutual settlement group then issues the settlement letter, which includes the penalty demand. In all the cases we reviewed, facilities had come into compliance before the enforcement action was concluded. We found this to be consistent with EPA's HPV policy goals.

It should be noted that, because SJVAPCD (like most CA air districts) first assures compliance and then initiates the mutual settlement process, and the AFS database indicates that a source is out of compliance until the enforcement action is concluded, AFS (ECHO) is generally giving inaccurate information when it indicates that sources in California are out of compliance.

**Recommendations:** None.

**6) The degree to which a state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.**

In response to an observed violation, the District issues one of two instruments to notify the source: a Notice of Violation (NOV) or a Notice to Comply (NTC). NOV's are resolved through the settlement process; NTC's are non-penalty warning letters. California state law (Health and Safety Code Section 39150) requires that air districts issue NTC's for certain minor violations. The District has a clearly written policy describing which types of minor violations qualify for NTC's. HPV's do not qualify for NTC's.

*Metric 6a. Timely action to address HPV sources*

There were 59 plants that had the HPV flag during FY06; of those, 37 had HPV status for longer than 270 days. This 62% rate is higher than the national average of 50%.

*Metric 6b. Timely action taken to address individual HPV pathways*

Per the AFS 659 report SJVAPCD had 206 individual HPV pathways. 57 were addressed in more than 270 days and 10 had been unaddressed for more than 270 days. There is no national average for this metric.

*Metric 6c. No activity indicator (AFS universe)*

SJVAPCD had no items with “no activity” to be explained for this element.

In FY06, the District’s mutual settlement group had a backlog of 1200 cases – this meant that settlement letters were sometimes going out six or seven months after the violation was noted. Over the past two years the District made a major effort to reduce this backlog, which was down to 150 cases at the time of our review. EPA believes that this problem has been resolved.

**Recommendations:** None.

**7) The degree to which a state includes both gravity and economic benefit calculations for all penalties, appropriately using the BEN model or similar state model.**

Most of the enforcement action files included a penalty calculation worksheet which specified the penalty as derived from the District’s policy, which is contained in the “Mutual Settlement Guidance Schedule” (revised 6/18/07)” and they include, among other things, economic benefit and ability to pay.

We found the District’s penalty guidelines to be consistent with EPA guidance on the subject. However, we noted that the multiplier for the ability to pay factor varied up to a maximum of only five. Given that the District takes enforcement action against some very small “mom and pop” operations as well as some very large corporations, we believe this could potentially result in inappropriately small penalties for some larger violations. We understand that the District is currently in the process of analyzing the deterrent value of their existing penalty structure as it applies to larger companies. We look forward hearing of the results of this analysis, and we commend the District for continuing to ensure that penalties are contributing to improved compliance.

**Recommendations:** We recommend that the District continue their analysis of the deterrent effect of their existing penalty structure as it applies to larger companies, in order to ensure that penalties are contributing to improved compliance.

**8) The degree to which final enforcement actions collect appropriate economic benefit and gravity penalties in accordance with applicable penalty policies.**

In Federal FY 2006 SJVAPCD issued 2,644 Notices of Violation and collected \$3,904,257 in penalties. SJVAPCD inspectors generally issue citations onsite at the time of inspection, and do not submit their written inspection reports until the facility has come into compliance. The

Compliance Division's mutual settlement group then issues the settlement letter, which includes the penalty demand. The mutual settlement staff successfully negotiates settlements in 95% of the cases. The other 5% are forwarded to the District's legal counsel for resolution; of these, most are settled administratively, and occasionally a case will go to the Superior Court for the State of California to be resolved judicially.

*Metric 8a . No activity indicator - penalties*

SJVAPCD had no items with "no activity" to be explained for this element.

*Metric 8b. Penalties normally included with formal HPV enforcement actions*

The SRF data initially showed that 124 of 171 (77.1%) HPV's had addressing actions with blank penalty fields. When we discussed this with SJVAPCD, we learned during FY06 they had a problem capturing the action number that AFS assigns to their batched actions. They are now capturing those action numbers, and provided the missing penalties for FY06.

The corrected numbers showed that out of 155 addressing actions, 141 of them (90.96%) of those had assessed penalties. This is higher than the national average (76.7%).

**Recommendations:** None.

**9) The degree to which enforcement commitments in PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time), if they exist, are met and any products or projects are completed.**

EPA Region 9 has no Performance Partnership Agreements or State Enforcement Agreements with its state and local agencies. The Regional Administrator, Deputy and Division Directors hold annual meetings with the environmental commissioners and directors of Region 9's state agencies to share priorities and strategies and to explore opportunities for partnership. One component of this partnership is the Compliance Monitoring Strategy (CMS) Plan that provides an agency's commitments for conducting FCE's (including inspections, Title V certification and source test reviews), identifying HPV's, and reporting such activities to AFS.

SJVAPCD submitted an adequate CMS Plan for FY 2006 on March 22, 2006. They committed to target all sources on an annual basis (all majors and all SM's).

In their CMS plan, SJVAPCD committed to the national standard of reporting FCE's only when they have reviewed all necessary reports and records, including Title V certifications, excess emission reports and other documents, physically visited the facility and reviewed facility records and operating logs, assessed control devices and reviewed stack tests. Our file and data reviews indicated that SJVAPCD was tracking and performing all of these elements for their reported FCE's. We noted some upload and coding anomalies elsewhere in this report, but SJVAPCD is working to resolve all those and is making its reporting more prompt, accurate, and

transparent. It should also be noted that the District is also voluntarily reporting many PCE's to AFS and is providing those in a timely manner as a result of the automation.

The District successfully met all of their CMS commitments, except as otherwise outlined in this report.

**Recommendations:** None. The District successfully met all of their CMS commitments, except as otherwise outlined in this report.

#### **10) The degree to which the Minimum Data Requirements are timely.**

The national standard for AFS data timeliness is 60 days, per the 2005 "Information Collection Request" (ICR) approved by OMB on June 5, 2005. This standard has also been incorporated into EPA's AFS Business Rules and CMS plan documents.

Our review of 5,161 AFS actions (tests, certs, FCE's, and PCE's) from FY06 shows that 3,308 were entered within 60 days of occurrence. This 64.1% rate exceeds the national average of 42.4%.

##### *Metric 10a. Timely entry of HPV data*

As noted above, in FY 2006 difficulties with the batch loading system resulted in delayed entry of some data, including HPV's. The District has been continuing to improve their process and EPA believes that this problem has been resolved.

**Recommendations:** None

#### **11) The degree to which the Minimum Data Requirements (MDR's) are accurate.**

##### *Metric 11a. Number of HPVs/Number of non-compliant sources*

Per the SRF data, SJVAPCD identified 79 new HPV's in FY06, but only listed 5 plants as non-compliant for a 6% rate. This is far lower than the national average of 99.0% for this measure. Because AFS does not automatically change the compliance status of a plant when it has been identified as an HPV and instead requires that the compliance flag be manually changed in a different part of the system, the District has not been able to automate this feature successfully as yet. Further, due to their AFS staff turnover, SJVAPCD has not been manually adjusting the plant compliance flag and, given the large volume of their uploads, does not believe they will be able to do this manually every time an action or HPV were to change.

This highly complex function is easier when there are few actions. SJVAPCD has so many plants and so many actions that it is something that should be programmed, but could be costly and time-consuming. This is something many other AFS users are simultaneously attempting to

develop or hope will be programmed into AFS directly someday. The HPV flag in AFS currently is automatically updated during the HPV stages and several national AFS workgroups have recommended AFS should make the plant compliance status work the same way.

Until SJVAPCD can automate and synchronize a plant compliance flag value with the HPV action steps and other actions, it will have no choice but to manually review the plant compliance flag and seek to keep it current, like most other AFS users currently do. The planned new AFS hire should be running routine reports to try to keep this compliance flag current.

*Metric 11b(1). Stack test results at federally-reportable sources (% without pass/fail results)*

The SRF data showed SJVAPCD reported a total of 2,338 source tests via their automated system in FY06. All these records included pass/fail values, so none (0%) were missing the results codes. This rate was far better than the national average (15.6%). This result shows the value of the automated upload program, as using edit checks and required fields ensures valid result values routinely on every record.

*Metric 11b(2). Stack test results at federally-reportable sources (number of failures)*

The SRF data showed 175 failed tests out of 2,338. This is a potential problem, as a failed test is an HPV if it is for the pollutant for which the facility is major. After further review, we learned that the District did not enter the pollutant codes for the tests; therefore, we were unable to ascertain whether more of them should have been linked to HPV's. SJVAPCD should enter the pollutant codes for all stack tests to ensure the accuracy of data.

**Recommendations:**

SJVAPCD should report plant-wide compliance status changes based on actions from its automated system as soon as it is able. Until SJVAPCD can automate and synchronize a plant compliance flag value with the HPV action steps and other actions, it will have no choice but to manually review the plant compliance flag and seek to keep it current, like most other AFS users currently do. The planned new AFS hire should be running routine reports to try to keep this compliance flag current.

**12) The degree to which the Minimum Data Requirements (MDR's) are complete.**

*Metric 12a. Title V universe is accurate*

SJVAPCD agrees with the corrected final Title V major universe of 191 sources.

*Metric 12b. State agrees with source count*

SJVAPCD agrees with the corrected source count: 191 majors, 155 synthetic minors and 0 NESHPA minors.

*Metric 12c. Subprogram universe is accurate*

EPA believes that there are probably numerous sources subject to NSPS, MACT or NESHAP that have not been entered in AFS.

*Metric 12d-f.*

Based on our file and data reviews, we found no data completeness issues with compliance monitoring counts, historical non-compliance, or NOV's.

*Metric 12g. HPV counts complete*

Due to the source test issue noted in Metric 1b.2, we were unable to ascertain whether some failed source tests should have been recorded as HPV's. SJVAPCD should enter the pollutant codes for all stack tests to ensure the accuracy of data.

*Metric 12h. Formal action counts complete*

Based on our file and data reviews, we found no data completeness issues with formal action counts.

*Metric 12i. Assessed penalties complete*

The SRF data initially showed that 124 of 171 (77.1%) HPV's had addressing actions with blank penalty fields. When we discussed this with SJVAPCD, we learned during FY06 they had a problem capturing the action number that AFS assigns to their batched actions. They are now capturing those action numbers, and provided the missing penalties for FY06.

*Metric 12j. Number of major sources missing CMS targets*

There were no major sources missing CMS targets.

**Recommendations:**

SJVAPCD should make the updates to AFS and do additional quality assurance by comparing with AFS reports to ensure that all MDRs are reported and current.

## **FORM A - EVALUATION FORM**

**Date:** August 21, 2007 (revised January 3, 2008)

**Program Evaluated:** Resource Conservation and Recovery Act (RCRA)

**EPA Evaluator:** Robin Holloway

**Phone:** 415-972-3305

**State Contact:** Gale Filter

**Phone:** 916-445-3941

**Background:** California's RCRA compliance program is conducted by six Department of Toxic Substance Control (DTSC) regional offices and 85 local agencies known as Certified Unified Program Agencies (CUPAs). Generally, DTSC conducts inspections of the Treatment, Storage, and Disposal (TSD) universe and transporters, as well as conducting some generator inspections. CUPAs are delegated six environmental programs, including most hazardous waste generator inspections and enforcement.

The California Health and Safety Code requires that the Secretary for the California Environmental Protection Agency (CalEPA) periodically review the ability of each CUPA to carry out the program requirements. The required process is defined in Title 27 of the California Code of Regulations. The goal is to assess whether the CUPA is effectively implementing all of the Unified Program elements and is continually improving to meet the intent of the law: coordination, consolidation, and consistency of all Unified Program elements.

Each CUPA is assessed every fall by a team made up of senior staff from each state agency with Unified Program responsibilities, including DTSC. The assessment uses a spectrum of performance measures and criteria and results in a schedule of onsite evaluations for the next year. Onsite evaluations for each CUPA are completed at a minimum of every three years.

Evaluation procedures include a site visit by the Evaluation Team to the CUPA to examine local program procedures, their documentation, and inspection and enforcement files. The visit may also include observations of the CUPA's inspectors in the field. Evaluations conclude with a Team and CUPA staff meeting and a Summary of Findings, which includes an agreed upon list of deficiencies, corrective measures, and correction time frames. CUPAs are evaluated as Meeting or Exceeding Standards, Satisfactory with Improvement Needed, or Unsatisfactory with Improvement Needed.

DTSC's "Evaluation of HW Generator and Tiered Permitting Programs Evaluation Checklist" and "File Review Sheet" are similar to the "File Review Worksheet" used by EPA for this State Review, and includes 7 of the 12 State Review criteria, including inspection frequency, adequate evidence in reports, timely reports, documentation of return to compliance, appropriate violation classification (equivalent to EPA's SNC classification), timely enforcement, and review of penalty calculations. Additional criteria (i.e., data requirements) are evaluated prior to the onsite review. The only SRF element that does not appear to be reviewed during the CalEPA evaluations is verification in the files that penalties are collected.

**Data Management.** DTSC uses a state database known as "ICE" to maintain data on their RCRA

compliance program. ICE data is forwarded to Region 9 on a quarterly basis for uploading to RCRAInfo. RCRAInfo's move to v.3 created difficulties in the data exchange. Data was not provided to EPA in a timely manner subsequent to the upgrade, but those problems were resolved with the upload completed in June 2007.

CUPAs provide information on their compliance program via data entry forms. Since 2003, either EPA or CalEPA has entered CUPA data directly into RCRAInfo. In 2004, EPA provided a NEIEN grant for CalEPA to develop the Unified Program Database System (UPDS) for CUPAs to use. The UPDS system provides for a CDX exchange of data to RCRAInfo. This system went online in 2007 (full activation in 2008 or 2009), and either CalEPA will enter data for CUPAs into UPDS, or CUPAs will use the system directly. It is expected to be fully implemented by all CUPAs by 2010. The first exchange of UPDS data to RCRAInfo occurred in July 2007.

EPA's File Review. The two largest DTSC regional offices (Berkeley and Glendale) were chosen for file review. These two offices cover nearly half of California's inspectable TSD universe. EPA also reviewed two CUPA agencies concurrently with their CalEPA triennial evaluations. The two CUPA agencies were Hayward, a city agency in northern California with approximately 16 Large Quantity Generators (LQGs), and Orange County, a large county agency in southern California with approximately 130 LQGs. For each of the four offices, EPA ran a RCRAInfo report for the selected offices showing Compliance Evaluation Inspections and formal enforcement actions for FY06. State and CUPA files from those lists were randomly selected and reviewed. Of the 45 total files reviewed, the breakdown of files is as follows: 12 from the Berkeley office, 13 from the Glendale office, 11 from the Orange County office and 9 from the Hayward office. Seventeen were TSD files, 20 were for LQGs, 7 were SQGs and one was a transporter. Ten of the files had no violations, 4 facilities returned to compliance the same day as the inspections, 18 had informal enforcement actions, and 13 had formal enforcement actions with penalties.

Information Sources Used in Review: As discussed under each element, the following written sources were used during the review:

1. U.S. EPA RCRAInfo database;
2. Framework Metric data pull from OTIS for FY06 for California;
3. U.S. EPA S FY 2006 End-of-Year Evaluation Report on DTSC;
4. CalEPA CUPA Evaluation Summary of Findings;
5. DTSC "Evaluation of HW Generator and Tiered Permitting Programs Evaluation Checklist" and "File Review Sheet"
6. California Code of Regulations Title 22 (DTSC) and Title 27 (CUPA program)
7. California Health and Safety Code, Chapter 6.5
8. CalEPA Inspection and Enforcement Resource (web site)
9. "U.S. EPA RCRA Civil Penalty Policy", dated June 2003;
10. :"RCRA Enforcement Response Policy", dated December 2003;
11. DTSC's Guidance Document "Guidelines for Calculating the Economic Benefit of Noncompliance", EO-02-001-GD; and
12. "U.S. EPA State Review Framework Training Manual", dated June 2005.

## **Section 1. Review of State Inspection Implementation**

- 1. Degree to which State program has completed the universe of planned inspections/evaluations (covering core requirements and federal, State, and regional priorities).**

### **Data Metrics**

Metric 1A	Inspection coverage - Treatment, Storage and Disposal Facilities (2 FY)	94.7%
Metric 1B	Annual Inspection coverage - Large Quantity Generators.	6.9%
Metric 1C	Five-year inspection coverage - Large Quantity Generators.	28%
Metric 1D	Inspection coverage - Small Quantity Generators.	1.9%
Metric 1E	Inspections at all other active sites	169

### **Findings (including successful performance and areas for improvement):**

**Inspection coverage of Treatment, Storage and Disposal (TSD) facilities** - California's data metric of 94.7% is above the national average of 91.7% for TSDs inspected every two years. The report shows four TSDs that have not been inspected by DTSC as required. Certainteed Corporation's last two inspections were on August 24, 2004 and Oct 11, 2006. McCormick Selph's last two inspections were on September 1, 2004 and May 9, 2007. EPA has agreed to allow DTSC to use their fiscal year (July 1 through June 30) for scheduling inspections. These facilities' inspections took place in State Fiscal Years 2005 and 2007, thereby meeting the every other year requirement. The other two facilities on the list (BKK Landfill and Philip West) are not operating TSDFs. The permitting data was corrected in June 2007 and these two facilities no longer show up as part of the Operating TSD universe. Therefore, DTSC inspected 100% of their TSD universe in the last two state fiscal years.

**Annual inspection coverage of large quantity generators (LQG)** - The OTIS SRF Report shows 2,493 LQGs in California. RCRAInfo, on the other hand, reports 1,598 LQGs. Region 09, DTSC, and CalEPA all believe the RCRAInfo number to be more accurate. The OTIS report counts all BRS filers; analysis of BRS data indicates that a large number of facilities that file the BRS are not actually consistently LQGs, but episodic or one-time only LQGs (that is, they do not report generating enough waste to be LQGs consistently every month).

In addition, it appears that the OTIS SRF report is not counting inspections conducted by agency "L" (locals). As discussed above, most generator inspections in California are delegated to local agencies (CUPAs). In late 2005, CalEPA began entering CUPA generator inspections into RCRAInfo using the agency "L" code. (Previously, the code "B" for state contractor was used.) A review of RCRAInfo indicates that agencies "S", "B", and "L" conducted 390 CEI inspections at LQGs in FY06 (as opposed to 172 shown in the OTIS report). The total number of LQGs inspected, including EPA inspections, was 434. If the OTIS report included all inspections, California's coverage of the LQG universe would be approximately 15.6% (17.4 % for

combined) using the inflated number of 2,493 LQGs, and 24.4% (27.1 % for combined) using the more accurate number of 1,598 LQGs. The latter is well over the 20% needed to cover the LQG universe over five years.

**Five-year inspection coverage of LQGs** - Per the OTIS report, California is below the national standard of 100%. As mentioned above, CUPAs report large quantity generator inspections to CalEPA, who enters the data into RCRAInfo. However, the CUPAs did not begin reporting until 2003. Given that for at least one year (2002) no CUPA data was entered into RCRAInfo, and the inflated number used for the LQG universe, US EPA is confident that the actual inspection coverage of large quantity generators in California is adequate. Per Title 27, the California Code of Regulations, section 15200(b)(1) and 15200 (f)(1)(C), CUPAs are required to inspect their generators according to applicable statutes and regulations. For most generators in California, that is every three years. CalEPA does triennial evaluations of CUPAs, and failures to meet required inspection frequencies are written up as a deficiency by CalEPA, requiring corrective action by the CUPA. CalEPA has analyzed the summary data provided by CUPAs and estimates that most LQGs are inspected every two years.

**Five-year inspection coverage of small quantity generators (SQG)** - The data metric for inspection coverage for SQGs (1.9%) is low. However, the SQG universe in RCRAInfo/OTIS is inflated by the presence of inactive and conditionally exempt facilities. CalEPA states that there are, as of last year, approximately 81,357 regulated generators of hazardous waste in California. California does not separate out RCRA vs. non-RCRA generators (California regulates far more waste as hazardous than do the federal regulations), but believes approximately 18,000 of these facilities are RCRA regulated (as opposed to the 46,094 facilities per OTIS).

In addition, CUPAs are not currently reporting SQG inspection data to US EPA. Summary reports provided by the CUPAs to CalEPA (but not entered into RCRAInfo) indicate that over 35,000 generator inspections are conducted by the CUPAs each year (again, this includes both RCRA and non-RCRA inspections). US EPA believes that inspection coverage of all generators in California is adequate. CalEPA has analyzed the summary data provided by CUPAs and estimates that most generators are inspected every two years.

Based on the summary reports already provided by the CUPAs to CalEPA, EPA expects that the RCRAInfo data will confirm adequate inspection coverage of all generators in California when UPDS is fully implemented by 2010.

**State Commitments** - With the exception of inspections at TSDs (3 fewer conducted than the grant commitment), DTSC exceeded its grant commitments for State Fiscal Year 2006. DTSC reported completing 361 site inspections and 110 Financial Responsibility inspections (both RCRA and non-RCRA). In its self-assessment for the Statewide Compliance Division (SCD), DTSC explained that they postponed some of their targeted TSD inspections due to pending enforcement actions against two facilities, inspector workload, permitting activity, and redirecting staff to inspect generators under the mercury lamp initiative. Although not all of the planned TSD inspections were conducted, DTSC still far exceeded compliance with the 2-year inspection frequency requirements set forth in RCRA Sec 3007(e)(1) by inspecting over 80% of their TSD universe during the year.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06 (run April 2007), RCRAInfo reports (run April 2007), State Grant SFY06 End-of-Year report, CalEPA CUPA Evaluations, California statute and regulations, and information provided to EPA by DTSC and CalEPA managers.

**Recommendations if corrective action is needed:** None. Region 09 will monitor CalEPA's progress in fully implementing UPDS, which will confirm adequate generator inspection coverage by 2010 (if not before). OECA should consider that the OTIS report considerably overcounts the true number of LQGs.

**2. Degree to which inspection reports and compliance reviews document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.**

**File Review Metric**

Metric 2a	Inspection report complete (45 files)	100%
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**Findings (including successful performance and areas for improvement):**

DTSC's inspection reports were clear and thorough. The reports included a narrative documenting the inspection, identified violations and, if applicable, included photographs and/or other documentation supporting the inspector's observations. DTSC should be commended for the thoroughness of their inspection reports.

The two CUPA agencies evaluated used detailed checklists for their inspections, and generally only wrote narratives to describe violations. In addition, photographs were uncommon except in cases where a formal enforcement action was anticipated. Though the narrative portions of CUPA reports were brief, violations were sufficiently documented to support SNC and Secondary Violator status. According to the CalEPA Evaluation Reports, in the last 2 ½ years, nine CUPAs were identified during their evaluations as having deficiencies in inspection reports. Evaluation team leaders work with the CUPAs and state agencies to ensure the CUPAs correct their programs and meet state requirements.

**Citation of information reviewed for this criterion:** File review and information provided to EPA by DTSC and CalEPA managers.

**Recommendations if corrective action is needed:** No improvement is required for DTSC reports. Regarding the CUPA reports, in the Fall of 2007, CalEPA created a web based Inspection and Enforcement Resources web site that includes Guidelines for Digital Photos, Inspection Report Guidance, and a Sample Hazardous Waste Generator CUPA Inspection Report. The timeline for CUPAs to follow these guidelines is immediate. In addition, CalEPA, along with DTSC, significantly revised the Inspection and Enforcement Program guidance that is

published and used in CalEPA's training programs. The revised guidance includes specific guidance regarding inspection report writing. It will be posted on the web in January 2008 and used during the February 2008 CUPA Annual Training Conference. EPA will track CUPA progress in adopting these standards via the ongoing formal evaluation process.

**3. Degree to which inspection reports are completed in a timely manner, including timely identification of violations.**

**File Review Metric**

Metric 3a	Percentage of Inspection Reports completed in a timely manner	69% (31/45)
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**Findings (including successful performance and areas for improvement):**

Out of the 45 files reviewed for California, all had completed reports. As required by law (California Health and Safety Code, Chapter 6.5, Article 8, 25185(c)(1)), the procedure for both DTSC and the CUPAs is to leave a Summary of Violations (SOV) with the facility the last day of the inspection. The Summary of Violations ensures the timely identification of violations, and a prompt return to compliance. In rare instances, potential violations are verified subsequent to the inspections, and are included in the inspection report that is mailed to the facility.

In addition to the SOV, CUPA agencies also leave a copy of the completed checklist and violation narrative with the facility the day of the inspection. A few of these CUPA reports were not left with the facility but were mailed to the facility within one week of the inspection.

California's law requires that inspection reports be provided to the facility within 65 days of the inspection date (California Health and Safety Code, Chapter 6.5, Article 8, 25185(c)(2)(A)). Of the 25 DTSC reports reviewed, only 11 met this criterion. The preparation time ranged from 24 days to 317 days from the time of the inspection. However, because the SOV left with the facility required compliance (usually within 30 days), with one exception (a pending formal enforcement), all facilities returned to compliance in a timely manner.

**Citation of information reviewed for this criterion:** File review (see item 2 for details on file selection), California law, and discussions with DTSC and CUPA managers.

**Recommendations if corrective action is needed:** DTSC is not meeting its own timeliness standards in completing its inspection reports. Prior to the State Review, DTSC had created a workgroup to analyze the reasons for the delay of the reports, and make recommendations for improvement. The DTSC workgroup anticipates completing their report and providing it to the Deputy Director for the Enforcement and Emergency Response Program by the end of February 2008. The recommendations will be discussed internally and implemented by the end of April 2008. EPA recommends that DTSC implement the actions that are recommended by the workgroup and track the effectiveness of those corrective actions.

## **Section 2. Review of State Enforcement Activity**

- 4. Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely and accurate manner.**

### **Data Metrics**

Metric 4A	SNC ID rate at facilities with evaluations	13.3%
Metric 4B	SNC determinations made within 150 days	Data not available
Metric 4C	Number of SNCs	38
Metric 4D	Percent formal actions with prior SNC	74.5%

### **File Review Metrics**

Metric 4e	SNCs/Secondary violators reported in a timely manner?	86% (30/35)
Metric 4f	SNC determinations appropriate?	100%

#### **Findings (including successful performance and areas for improvement):**

DTSC. The SNC identification rate and percent of formal actions with prior SNC are both significantly above the national average. DTSC inspectors classify violations as Class 1, Class 2, or minor violations, usually at the time of the inspection. Facilities with Class 1 violations meet EPA's definition of a SNC, and SNYs are promptly entered into DTSC's "ICE" database, which is translated to RCRAInfo on a quarterly basis. (Note that this did not happen in the last year, because of the problems translating ICE data to RCRAInfo v. 3 discussed above.) The file review discovered one SNY not entered into RCRAInfo. According to DTSC, the case was a result of a complaint. DTSC maintains tip and complaint information in a database separate from ICE. As a result, data from this inspection and enforcement never made it into RCRAInfo.

CUPAs. Of the four CUPA formal actions found in the file reviews none were reported to EPA as SNCs. In follow-up to the results of the CUPA file reviews, CalEPA indicated that there had been confusion between DTSC and CalEPA about the equivalency of Class 1 violations with SNC status, and CalEPA had not been entering facilities with Class 1 violations as SNYs.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06, the file review (see item 2 for details on file selection), and information provided to EPA by DTSC and CalEPA personnel.

**Recommendations if corrective action is needed:** DTSC. When RCRA inspections and/or enforcements occur as a result of tips or complaints, that information should also be entered into ICE (or RCRAInfo), so that all California's RCRA compliance accomplishments are reflected in EPA's national databases. DTSC plans to use part of a NEIEN grant they received in July 2007

to ensure that compliance data resulting from tips and complaints is also entered into ICE. The upgrade is scheduled to be completed in 2009. CUPAs. CalEPA met with their database contractor and will have him make changes to the system so that Class 1 violations will be translated to RCRAInfo as SNYs. This is due to occur between January and March 2008. EPA will check the system in April 2008 to ensure that CUPA SNYs are being appropriately entered and translated into UPDS/RCRAInfo.

**5. Degree to which State enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.**

**File Review Metric**

Metric 5a	Actions require appropriate injunctive relief, compliance schedule?	100%
Metric 5b	Did enforcement action return source to compliance?	91% (32/35)

**Findings (including successful performance and areas for improvement):**

California inspectors identify potential violations during the inspection and review potential violations with the facility representative at the end of the inspection. As discussed above, they are required by law to leave a Summary of Violations (SOV) with the facility that includes a requirement to return to compliance within a certain number of days.

Because of the SOV procedure, many facilities in California return to compliance prior to any other enforcement action being taken. Of the 35 files with violations reviewed, 16 facilities returned to compliance as a result of the SOV, eight returned to compliance after receiving the inspection report with the informal enforcement action letter, 3 had Consent Orders that indicated the facility had returned to compliance prior to issuance of the Order, and five had Consent Orders with compliance schedules. One file had a pending formal enforcement that would include a compliance schedule. Two CUPA files had no documentation that the facilities had returned to compliance in response to the Summary of Violations.

**Citation of information reviewed for this criterion:** File review (see item 2 for details on file selection), CalEPA CUPA Evaluation, and discussions with DTSC and CUPA staff.

**Recommendations if corrective action is needed:** None. The CUPA with files lacking documentation of return to compliance had that issue written up as a deficiency in the CalEPA evaluation. The CUPA's response was to immediately adopt a new procedure to ensure prompt follow-up on facilities that do not provide return to compliance certification.

**6. Degree to which a State takes timely and appropriate enforcement actions in accordance with policy relating to specific media.**

## Data Metric

Metric 6A	SNCs addressed with 360 days	Data not available
Metric 6B	No activity indicator.	95

## File Review Metric

Metric 6c	Enforcement actions timely?	89% (31/35)
Metric 6d	Enforcement response appropriate?	100%

## Findings (including successful performance and areas for improvement):

Timeliness. The file review indicated that most enforcement actions are taken in a timely manner. Of the 22 informal enforcement actions, 21 were taken within 150 days. According to the file, the one untimely case involved issues that required further research by the inspector, and the issue was observed and communicated to the facility during the inspection. The facility did return to compliance within 240 days.

Of the 13 formal enforcements, 10 were finalized within 360 days. Three (Lawrence Livermore National Laboratory, Crosby & Overton, and one pending enforcement confidential), all DTSC enforcements, exceeded the 360 day criterion for timeliness. According to DTSC managers, the Lawrence Livermore National Laboratory and Crosby & Overton cases exceeded the 360 day criterion for timeliness because of high staff and supervisor workload as well as the complexity of applying the regulations to the specific circumstances of each case. Other causes of cases exceeding timeliness criterion are: non-cooperative facilities or opposing attorneys; recalcitrant facilities, Attorney General's workload and inability to pay claims. (DTSC has a financial audit process which is different from the federal BEN process to determine a facility's ability to pay.) EPA (in the Enforcement Response Policy) recognizes that there may be circumstances (such as those listed above) that explain why the enforcement response times specified in the Enforcement Response Policy are insufficient to prepare and initiate the appropriate enforcement response.

Appropriateness. The reviewer found no issues with the appropriateness of the enforcement actions in the files reviewed. California completes significant numbers of formal actions. Findings of Class 1 violations result in formal enforcements with penalties. Of 45 files reviewed, 13 included formal enforcements with penalties (including four CUPA cases).

In addition, DTSC and CalEPA continue to work on improving this metric via training and noting improper violation class as a deficiency during CUPA evaluations. For example, in the Orange County CUPA evaluation, “not consistently identifying violations in a manner consistent with the definition of a Class 1 violation” was noted as a deficiency. A corrective action to train staff was required. CalEPA and DTSC continue to work with CUPAs to ensure the enforcement responses are appropriate.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06, file review (see details of file selection in item #2), CalEPA evaluations,

and information provided to EPA by DTSC and CalEPA personnel.

**Recommendations if corrective action is needed:** No improvement is required. CalEPA provides updates to Region 9 on their progress in working with the CUPAs by posting quarterly Summaries of Findings developed subsequent to the CUPA evaluations. The Summary of Findings note whether enforcement responses are appropriate and include a corrective action schedule to monitor progress in this area when they are not.

7. **Degree to which a State includes both gravity and economic benefit calculations for all penalties, using the BEN model or similar State model (where in use and consistent with national policy).**

#### **File Review Metric**

Metric 7 a	Penalty calculation included calculation for gravity and economic benefit	100%
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#### **Findings (including successful performance and areas for improvement):**

California's penalties are calculated per the California Code of Regulations, Chapter 22, Article 3, § 66272.61. The procedures are consistent with EPA's RCRA Penalty Policy, and include a gravity calculation and additional adjustment factors. Economic benefit is determined using DTSC's Guidance Document "Guidelines for Calculating the Economic Benefit of Noncompliance", EO-02-001-GD.

All the formal enforcement files reviewed included penalty calculation worksheets that included the following criteria: gravity (potential for harm and extent of deviation), multi-day calculations, adjustments for ability to pay, history of noncompliance and economic benefit.

**Citation of information reviewed for this criterion:** File review (see item 2 for details on file selection), DTSC's regulations and guidance, and discussions with DTSC and CUPA staff.

**Recommendations if corrective action is needed:** No improvement is required.

8. **Degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty.**

#### **Data Metrics**

Metric 8A	No activity indicator - Penalties	\$1,001,184
Metric 8Ba	Percent of formal actions with penalty	50.5%

Metric 8Bb	Percent of final formal actions with penalty	95.8%
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## File Review Metric

Metric 8C	Does the final action include a penalty that incorporates appropriately calculated gravity and economic benefit components?	100%
Metric 8D	Did the final action result in a collected penalty?	100%

### Findings (including successful performance and areas for improvement):

California assesses and collects appropriate penalties. All files with final formal enforcement actions had proof of payment of the penalty (except in one recent settlement where the penalty payment due date had not arrived). CalEPA's evaluation of one CUPA commented that they settled for penalties "generally below that of DTSC's, but within the parameters set forth for determining and assessing penalties as set forth in regulation." Given that DTSC's regulations allows for a range of penalties (as does EPA's Penalty Policy), as long of the penalties are within these parameters, EPA is satisfied that DTSC is confirming that CUPA penalties are appropriate during the evaluation process.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06, the file review (see item 2 for details on file selection), EPA's RCRA Civil Penalty Policy, CalEPA evaluations, and information provided to EPA by DTSC and CalEPA personnel.

**Recommendations if corrective action is needed:** In the Fall of 2007, CalEPA created a web based Inspection and Enforcement Resources web site that includes the Violation Classification Guidance (i.e., SNC determinations). The timeline for CUPAs to follow these guidelines is immediate. In addition, during the February 2008 CUPA Annual Training Conference, a class will be given in Penalty Calculation. EPA recommends that DTSC, in conjunction with CalEPA, continue to use the evaluation process to encourage CUPA agencies to assess and collect appropriate penalties. EPA will track CUPA progress in adopting these standards via the formal evaluation process.

### 9. Degree to which enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed.

#### State/EPA Agreements

Agreement	3011 Grant and work plan
Total number of agreements	1
Number of agreements reviewed	1

**Findings (including successful performance and areas for improvement):**

With the exception of inspections at TSDs (3 fewer conducted than the grant commitment), DTSC exceeded its inspection commitments for State Fiscal Year 2006. DTSC reported completing 361 site inspections and 110 Financial Responsibility inspections (both RCRA and non-RCRA). In its self-assessment for the Statewide Compliance Division (SCD), DTSC explained that they postponed some of their targeted TSD inspections due to pending enforcement actions against two facilities, inspector workload, permitting activity, and redirecting staff to inspect generators under the mercury lamp initiative. Although not all of the planned TSD inspections were conducted, DTSC still far exceeds compliance with the 2-year inspection frequency requirements set forth in RCRA Sec 3007(e)(1) by inspecting over 80% of their TSD universe during the year. In addition, DTSC is to be commended for taking on workload that goes beyond meeting numerical inspection goals, but also achieves broader Resource Conservation and Recovery goals. Resources were re-directed to the mercury lamp enforcement initiative (39 inspections) to improve the recycling rate for mercury containing lamps and ensure compliance. Resources re-directed to the electronic waste initiative (61 inspections) ensure that public health and the environment are being protected from the hazards of improper e-waste recycling.

**Citation of information reviewed for this criterion:** California FY06 End-of-Year report.

**Recommendations if corrective action is needed:** California is meeting commitments. No improvement is necessary.

**Section 4. Review of Database Integrity**

**10. Degree to which the minimum data requirements are timely.**

**Data Metrics**

Metric 10A	Percent SNCs entered 60 days after designations	68.4%
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**Findings (including successful performance and areas for improvement):**

DTSC enters information regarding inspections, violations, and enforcement actions into their own data system, "ICE", and translates ICE data into RCRAInfo quarterly. Time lags in reporting occur because California is a translator state. In addition, EPA's upgrade of RCRAInfo to version 3 created significant difficulties for DTSC. RCRAInfo v.3 required DTSC to make changes to their data system, which took several months due to resource constraints. No DTSC data was input from ICE to RCRAInfo from April 2006 to November 2006. After November the next data load was in June 2007 and included ICE data through April 2007. This may explain why 68.4% of SNCs were reported 60 days after being designated. DTSC policy is for inspectors to submit their data entry forms (including Class 1 violation data) shortly after

returning to the office. SNY evaluations are then entered into the ICE database for facilities with Class 1 violations.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06, and information provided to EPA by DTSC managers and EPA Information Management staff.

**Recommendations if corrective action is needed:** Barring issues with translation, California has committed to translating their ICE compliance information into RCRAInfo quarterly. This has proven to be a resource-intensive process for both DTSC and Region 09. In July 2007 DTSC received a NEIEN grant. The purpose of the grant is to upgrade their ICE data system and simplify uploads to RCRAInfo. The due date for the upgrade and testing is dependant on the availability of the U.S. EPA RCRAInfo/CDX test site. Currently, availability of the test site is expected in the second quarter of FY 2009. EPA will track progress in fulfilling the requirements of the NEIEN grant and expects implementation of the upgraded system will make the data both more accurate and timelier.

## **11. Degree to which the minimum data requirements are accurate.**

### **Data Metrics**

Metric 11Aa	Number of sites SNC determination on day of formal action	1
Metric 11Ab	Number of sites SNC determined within one week of formal action	0
Metric 11B	Number of sites in violations for greater than 3 years	11

### **File Review Metric**

Metric 11c	Data in RCRAInfo is accurate?	80%
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### **Findings (including successful performance and areas for improvement):**

According to the OTIS report, the one site where a SNC was determined on the day of formal action was Romic Environmental Technologies in East Palo Alto. According to RCRAInfo, the most recent SNC determination for Romic was made on June 6, 2006. The SNC determination was made in response to a hazardous waste release at the facility, and DTSC issued a Consent Order to Correct Violations to Romic shortly after. This is a legitimate reason for Romic to appear in Metric 11A.

Metric 11C shows 11 facilities out of compliance for more than 3 years. This is a data quality issue. DTSC is researching the actual RTC dates for these facilities, and has entered the dates into ICE. These dates will be reflected in RCRAInfo after the next data load. In no case is any facility still out of compliance after three years without being designated a Significant Non-complier.

File review – There were some issues with completeness of data. As mentioned above, the CUPA was not reporting SNCs to EPA. In addition, some DTSC activity was not yet in RCRAInfo. This was a result of the translation and timeliness issue discussed above. DTSC successfully completed a translation of ICE data into RCRAInfo in June 2007, and was attempting to provide updated data by mid-August 2007.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06, RCRAInfo, the file review (see item 2 for details on file selection), and information provided to EPA by DTSC and CalEPA managers.

**Recommendations if corrective action is needed:** CalEPA plans to meet with DTSC policy staff to resolve the SNY data issue, and ensure that CUPA SNYs are appropriately entered in UPDS/RCRAInfo. California has agreed to improve RCRAInfo data entry of return to compliance dates. As mentioned above, DTSC received a NEIEN grant in July 2007. The purpose of the grant is to upgrade their ICE data system and simplify uploads to RCRAInfo. The due date for the upgrade and testing is dependant on the availability of the U.S. EPA RCRAInfo/CDX test site. Currently, availability of the test site is expected in the second quarter of FY 2009. EPA will track progress in fulfilling the requirements of the NEIEN grant and expects implementation of the upgraded system will make the data both more accurate and timely.

**12. Degree to which the minimum data requirements are complete unless otherwise negotiated by the region and State or prescribed by a national initiative.**

### Data Metrics

Metric 12A	Number of operating TSDs	76
	Number of active LQGS	2,493
	Number of active SQGs	46,094
	Number of all other active sites	3,139
Metric 12B Compliance monitoring:	Number of inspections	376
	Sites inspected	
Metric 12C	Number of sites with violations	445
Metric 12D NOVs	Number of sites	320
	Number of NOVs	379
Metric 12E SNCs	Number of sites with new SNC	38
	Number of sites in SNC	100
Metric 12F formal action	Number of sites	55
	Number taken	95
Metric 12G	Assessed penalties complete	\$1,001,184

**Findings (including successful performance and areas for improvement):**

12A. As discussed in Metric 1A, DTSC believes the number of operating TSDs to be 74. Data entry has corrected the two facilities that are not currently operating TSDs.

As discussed in Metric 1B, the OTIS SRF Report shows 2,493 LQGs in California. RCRAInfo, on the other hand, reports 1,598 LQGs. Region 09, DTSC, and CalEPA all believe the RCRAInfo number to be more accurate. The OTIS report counts all BRS filers; analysis of BRS data indicates that a large number of facilities that file the BRS are not actually consistently LQGs, but episodic or one-time only LQGs.

As discussed in Metric 1D, the SQG universe is inflated by the presence of inactive and conditionally exempt facilities. CalEPA states that there are, as of last year, approximately 81,357 regulated generators of hazardous waste in California. Included in this total could be used oil, universe waste, and conditionally exempt generators, in addition to facilities that are not regulated by RCRA, but solely by the State. California does not separate out RCRA vs. non-RCRA generators, but believes approximately 18,000 of these facilities are RCRA regulated. Verifying the numbers of RCRA regulated, non-TSDF, non-LQG facilities would be resource intensive. Because California regulates so much waste that is non-RCRA (i.e., California-only hazardous waste) and does not allow for the conditionally exempt generation of waste, determining the universe of actual active RCRA SQGs would be a resource intensive project that is not a priority for Region 09 or DTSC.

12B. As noted under Metric 1B, it does not appear that the OTIS report is counting local inspections, and therefore the number of inspections is an undercount. RCRAInfo reports 726 inspections by state agencies in FY06.

The numbers of sites inspected is also an undercount. RCRAInfo reports 609 sites inspected by state agencies in FY06.

12C. RCRAInfo reports 346 sites with violations inspected by state agencies in FY06.

12D. The Notice of Violation count of 379 (320 sites) reported by OTIS is comparable, with a RCRAInfo number of 408 (333 sites). It is possible additional data entry occurred subsequent to the pulling of the State Review data metrics report.

12E. The SNC count of 38 reported in OTIS is slightly higher (40) in RCRAInfo for FY06.

12F. The formal action count of 95 appears to be accurate.

12G. The penalty amount is accurate.

**Citation of information reviewed for this criterion:** OTIS State Review Framework RCRA Data Report for FY06 and RCRAInfo reports (pulled April and May 07), and information provided to EPA by DTSC managers.

**Recommendations if corrective action is needed:** None.

**Region 09 Comments:** Data quality issues in California are complicated to analyze. The source of discrepancies is often difficult to ascertain because: 1) DTSC uses their own data system, not RCRAInfo; 2) many sites regulated by California are non-RCRA, or have non-RCRA violations or enforcement; 3) California reports are based on their fiscal year, which is different than the federal fiscal year. Still, EPA believes that California's RCRAInfo data is complete and a good reflection of the excellence of their program. OECA should be aware that OTIS and RCRAInfo may show different results based on report select logic. Region 09 cannot reconcile the different reports.

### **13. Optional Element. Additional program activities.**

California's hazardous waste program is both broader and more stringent than the federal program. California regulates far more solid waste as hazardous waste than does the federal program. In addition, the regulation of hazardous wastes in California is more stringent, for example:

- There are more labeling requirements for hazardous waste
- There are storage time limits for satellite accumulation of waste
- Units exempt from permitting under RCRA (i.e. recycling units, wastewater treatment units) are not exempt in California
- DTSC has a five-tier system of permits required for treatment of hazardous waste (for example, the RCRA exemption for generator treatment in 90-day units does not exist in California)
- There is no conditional exemption for generators who generate a small amount of hazardous waste in a month

**NOTE: The following additional information was provided by DTSC and CalEPA for Element 13**

In addition to the inspection commitments of operating RCRA treatment, storage and disposal facilities, generators and transporters, DTSC conducted two Universal Waste Initiatives, was named as the Certified Unified Program in Imperial and Trinity Counties, and performed periodic CUPA evaluations in fiscal year 05/06. These activities are described below.

**Mercury Lamp Enforcement Initiative**

This initiative began in fiscal year 04/05 and ended in fiscal year 05/06. In February 2005, DTSC launched the mercury lamp enforcement initiative to improve the recycling rate for spent fluorescent tubes and other mercury-containing lamps generated in California. The initiative began with DTSC conducting outreach by sending out several thousand one-page fact sheets to affected businesses. The fact sheet clearly states that spent fluorescent tubes must be recycled and then directs the business to the Internet and other hardcopy resources on the proper management and recycling of spent fluorescent tubes. Fact sheets were mailed to "big box" (e.g. Albertson's, Costco, Kmart, Longs Drugstores, Target, Wal-Mart, etc.) retailers, lighting

contractors, and building management and building maintenance associations throughout the State. Future targets for mailing include large hotels, restaurant chains, government agencies, educational institutions, large office buildings and property management firms, healthcare institutions, and other businesses that are expected to be major generators of spent fluorescent tubes.

In early May 2005, SCD began conducting inspections of “big box” retailers to determine the compliance rate with the mercury lamp recycling requirement. SCD inspectors left educational and guidance materials with businesses and, where appropriate, cited violations that could include monetary penalties. Between May 6 and July 14, 2005, SCD conducted a total of 32 inspections. The inspections revealed that the majority of the “big box” retailers recycled their fluorescent tubes. No Class I violations were found and only a single Class II violation was identified. Only six facilities were found to have minor violations. Therefore, over 80% of the facilities inspected by SCD had no violations at all.

In August 2005, SCD began conducting inspections of companies advertising as mercury lamp recyclers to ensure that none are involved in illegal treatment activities. SCD also conducted inspections of the two permitted mercury lamp recycling facilities operating within the State. Beginning in late August and continuing through December 2005, SCD shifted its inspection focus to include lighting contractors involved in removing fluorescent tubes from offices, buildings and businesses.

By the end of December 2005, SCD staff completed a total of 59 mercury lamp inspections.

The breakdown of inspections is as follows:

- 33 “Big box” retailers
- 23 re-lampers (3 facilities were no longer in business)
- 3 recyclers (including one illegal drum crusher)

Rates of compliance for each category of inspection were:

- 24% (8/33) of the “Big box” retailers had primarily minor violations
- 50% (10/20) of the re-lampers had primarily minor violations
- 100% (3/3) of the recyclers had violations with two facilities the subject of enforcement actions.

DTSC intends to translate the results of the initiative into a simple and efficient template for inspection, enforcement, and penalties and transfer the template to the Certified Unified Program Agencies (CUPA) to supplement DTSC’s enforcement resources. In the interim, the information was presented at the February 2006 CUPA Conference in Burlingame, California, so that local programs could make use of the inspection checklists and DTSC’s regulatory approach as part of normal generator inspection activities. With this information, CUPAs will have a ready tool to assess compliance with mercury lamp recycling requirements during the 30,000 annual CUPA generator inspections.

#### Electronic Waste Initiative

In 2003, DTSC's Hazardous Waste Management Program (HWMP) adopted emergency regulations that allow electronic waste (e-waste) recyclers to conduct treatment of electronic wastes without obtaining a hazardous waste facility permit. These emergency regulations not only implement the Electronic Waste Recycling Act (Senate Bill (SB) 20/50), but also apply appropriate safeguards and requirements to protect workers, public health and the environment from the hazards of electronic waste. DTSC conducts inspections of electronic waste handlers who conduct treatment and/or recycling activities and wish to receive money from the California Integrated Waste Management Board for participating in SB 20/50.

During FY 2005-06, SCD staff conducted 61 SB 20/50 inspections. Three facilities were found to have violations serious enough to warrant an enforcement action. All three have returned to compliance. A total of 58 facilities now require a yearly inspection by SCD which represents a 57% increase over FY 2004-05 when only 37 facilities required an annual inspection.

DTSC named as the CUPA in Imperial and Trinity Counties

Senate Bill 1082 of 1993 created the Unified Program (UP) to establish consistent, consolidated and coordinated locally run agencies to oversee the management of hazardous materials and wastes. Specifically, included are inspection, permitting, enforcement and administration of the following six program elements:

1. Hazardous waste generators and onsite treatment facilities authorized under the permit-by-rule conditionally authorized and conditionally exempt tiers
2. Spill prevention control and countermeasure plans for owners of above ground storage tanks
3. Under ground storage tank program
4. Hazardous material release response plans and inventories (Business Plans)
5. California Accidental Release Prevention Program (CAL/ARP)
6. Hazardous Materials Management Plans and Inventories

By 2005, 56 of the 58 counties had their programs certified by the California Environmental Protection Agency (Cal/EPA). In addition, 26 cities had local agencies certified. Only Trinity and Imperial County failed to assume the program responsibilities.

The State worked for over 10 years from 1995 through the summer of 2005 to get Imperial and Trinity Counties to identify a local agency to implement the Certified Unified Program. In the summer of 2005, Cal/EPA informed the respective Boards of Supervisors that if they did not designate a local agency to run the program, the State would step in and become the Certified Unified Program Agency (CUPA). In the summer/fall of 2005, Cal/EPA and Department of Toxic Substances Control management met with the heads of various county agencies. The Counties were given an ultimatum to designate a local agency.

In January of 2005, DTSC was designated by Cal/EPA to implement the CUPA program in Trinity and Imperial counties with the understanding that full implementation could not commence until expenditure authority was obtained through the budget process. Budget approval authority was granted July 2005 and most of the staff positions were filled by January 2006. DTSC has been actively working since then to implement these programs.

### **Imperial County CUPA Implementation Activities**

Space has been procured and the office is now fully staffed, including a number of very qualified people with inspection and enforcement experience. An official “Open House” event was held in December 2005 to formally dedicate the office and provide an opportunity for businesses and other government agencies to meet the staff.

With regard to actual program implementation staff has accomplished the following:

- Established a toll-free telephone number to answer inquiries.
- Created fact sheets in English and Spanish to explain the program
- Met monthly with the County Farm Bureau and the Coalition of Labor, Agriculture and Business
- Responded to over 900 inquiries from generators, facilities, consultants and other interested parties
- Conducted informal workshops on the draft fees and how to complete required registration forms
- Conducted a series of 12 workshops that ranged from generator requirements to fees to pollution prevention training for the auto repair industry
- Conducted a series of 12 workshops that ranged from generator requirements to fees to pollution prevention training for the auto repair industry
- Participate in regularly-scheduled County Fire Chief’s Association meetings for coordination on Hazardous Materials Response activities and bi-monthly Hazardous Incident Response Committee meetings and California–Mexico border 2012 Meetings
- Re-established the Imperial County Environmental Crimes Task Force
- Conducted formal training for the farming community on filling out forms and supported compliance training.
- Reviewed 18 UST annual testing events, approved two new UST installations and approved four UST removal plans/actions.
- Responded to and conducted 17 complaint investigations
- Logged and followed up on seven reported hazardous materials releases including one involving five derailed train cars
- Created a Bi-Monthly CUPA Newsletter to distribute to the public.
- Developed Infrastructure for Envision Software Applications for Program Implementation
- Participated in the CAL-CUPA Forum Managers’ Meeting

Of the approximately 820 Imperial County CUPA regulated businesses, there are approximately 500 hazardous waste generators (including conditionally exempt and state-only), approximately five of whom are Large Quantity Generators.

### **Trinity County CUPA Implementation Activities**

The Trinity County CUPA program is being implemented out of the Cal Center office of DTSC. The initial outreach and work on the hazardous waste generator element was initiated in the spring of 2005. Formal work on other elements of the CUPA program commenced in July 2005.

With regard to actual program implementation, staff have accomplished the following:

- Staff have begun identifying the regulated universe.
- Met with County officials, the regional CHP commander, local law enforcement officials, CDFA, US Forest Service and local fire officials (note: there is only one paid county fire official and the rest are volunteers)
- Established a toll free telephone number to answer inquiries
- Participated in a local radio talk show to discuss the program
- Provided information for articles in the local newspaper.
- Arranged for additional first responder training for locals
- Sponsored four one-day compliance school classes where over ¼ of the regulated businesses in the county received training
- Conducted two informal workshops on the CUPA program and proposed fees
- Conducted five UST inspections and oversaw corrective actions. Also contacted the remaining UST's to schedule their annual inspections before January 2007.
- Collaborated with local officials to produce a County Area Plan
- Set up protocols with local responders to make business plan information readily available in times of need.
- Participated in a Task Force investigation of a local fireworks manufacturer.
- Participated in Regional Emergency Planning meetings with officials from neighboring counties.
- Investigated one complaint involving illegal disposal of a leaking electrical transformer. Secured DTSC Emergency Response support in removing the material.
- Participated in the CAL-CUPA Forum Managers' Meeting

Of the approximately 95 Trinity County CUPA regulated businesses tentatively identified during this fiscal year, there are approximately 52 hazardous waste generators all of whom are Small Quantity or Conditionally Exempt Small Quantity generators.

#### Periodic Evaluations of CUPAs

CUPAs are typically considered for evaluation once every three years. The purpose of the evaluation is to assess performance and provide advice for program improvement. The selection process was changed this year to allow for more efficient evaluations of each CUPA, and to have each State agency decide if their participation was warranted based on that agency's selection criteria. Cal/EPA scheduled 29 evaluations in FY 2005-06. DTSC's Statewide Compliance Division (SCD) participated in 18 of the 29 CUPA program evaluations in FY 2005-06. Eleven agencies were not formally evaluated by DTSC because the numbers reported in annual inspection and enforcement reports showed they were performing well.

Final evaluation results for this fiscal year show seven CUPAs met or exceeded expected performance standards. Nineteen CUPAs were rated as satisfactory with program improvements needed. Three CUPAs were rated as unsatisfactory with program improvement plans implemented. Problems reported during the CUPA evaluations included poor data reporting, discrepancies between number of enforcement-warranted violations and number of enforcement

actions, concerns regarding penalty calculation and collection, and poor performance during previous oversight inspections.

The most commonly cited deficiencies found during the evaluations in which SCD participated were: failing to ensure return to compliance through business certification or re-inspection (12 of 18); improper classification of violations (6 of 18); not meeting stated or required inspection frequencies (12 of 18); failing to take enforcement where warranted (4 of 18); and, problems encountered during the oversight inspection (4 of 8). Three agencies were cited for having deficient enforcement programs. Problems encountered with enforcement programs included not having an Administrative Enforcement Order process, failing to document settlement of enforcement cases, and allowing more than statutory limits for correction of violations. One agency was cited for not having a plan to address Universal Waste handling and handlers.

During evaluations, recommendations for program improvement are made to each program separate from those discovered deficiencies. The recommendations provided were overwhelmingly pointed at the quality of inspection reports. Five agencies were given recommendations to update or improve their Administrative Order Process, and four were noted to have discrepancies between their reported inventories of generators and DTSC's HWTS inventory of generators. The oversight inspections led to an additional three recommendations, two dealing with inspector application of the rules, and one with the documentation of the inspection findings.

**OECA COMMENTS:** We appreciate the effort by DTSC and CalEPA to prepare a response to Element 13 in the report. There is interesting material here that helps to put the program into perspective. The Mercury Lamp Enforcement initiative was a well considered and well executed project. We encourage DTSC to translate the results of this initiative into an effective program. Particularly where the template will go to the CUPAs to supplement DTSC's enforcement resources.