

**Maricopa County Air Quality Department
Clean Air Act Stationary Source Compliance and Enforcement Program FFY 2007
Final Report, State Review Framework, September 28, 2009**

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The following pages contain Arizona's Round 2 CWA and RCRA report.

STATE REVIEW FRAMEWORK

**ARIZONA DEPARTMENT
OF
ENVIRONMENTAL QUALITY**

Clean Water Act - NPDES
Resource Conservation and Recovery Act

Fiscal Year 2007

**Final Report
September 30, 2009**

I. EXECUTIVE SUMMARY

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

A. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Waste Program

• Priorities:

Arizona Department of Environmental Quality (ADEQ) Waste division has the authority to monitor and direct businesses that may generate, transport or dispose of hazardous waste in Arizona. The Waste Programs Division implements state and federal hazardous waste laws pursuant to delegation from the U.S. EPA. The division is responsible for effectively implementing standards for the safe generation, management, treatment, storage and disposal of hazardous waste. Specific responsibilities include:

- Conducting compliance and complaint inspections to ensure that hazardous wastes are safely managed and properly recycled.
- Investigating complaints and violations of Arizona's solid and hazardous waste laws
- Permitting facilities that treat, store or dispose of hazardous waste.
- Education and outreach for facilities and general public.
- Managing ADEQ's pollution prevention (P2) program and other activities aimed at eliminating or reducing the use of toxic substances and the generation of hazardous wastes.
- Tracking manifests, annual reports, registration and generation fees. Issuing facility identification numbers.

The 3011 Grant authorizes Arizona to run the RCRA program. The work plan associated with the 3011 Grant has two enforcement and compliance commitments. The first is that ADEQ's Hazardous Waste Compliance and Inspections Unit (HWCIU) inspect all permitted Treatment, Storage and Disposal (TSD) facilities every year and all interim status TSD facilities every two years. ADEQ surpassed this commitment by inspecting all of their TSD's. The second grant commitment is that ADEQ inspect at least 33 Large Quantity Generators (LQGs). ADEQ exceeded this by inspecting 38 LQG's.

The work plan includes providing a targeting plan for inspections, documenting tips and complaint responses, conducting high priority sampling, and conducting training for staff to include sampling and technical training.

In addition to accomplishing the items outlined in the work plan, ADEQ pursues state wide initiatives to identify industrial sectors in need of compliance assistance and enforcement. In FY 2006, ADEQ determined the largest sector of serious RCRA non-compliance in the state were Small Quantity Generators (SQGs) or Conditionally Exempt Small Quantity Generators (CESQGs). This determination was based upon observations made during inspections and complaints. The two industries of most concern were the radiator repair industry (generally CESQGs) and the metal plating industry (generally SQGs). In response ADEQ implemented a radiator repair initiative that continued through FY2007, and developed a metal plating initiative in FY2008.

• **Accomplishments:**

ADEQ's HWICU should be commended on their many accomplishments in FY2007 including:

- Radiator Initiative – Compliance Assistance Packages containing information about managing hazardous waste, forms to be submitted by the facilities defining their waste streams, and a workshop schedule were sent to 160 radiator shops in Arizona. ADEQ held four workshops in Phoenix and one in Tucson.
- ADEQ conducted approximately 12 compliance assistance presentations, four seminars for radiator shops and eight RCRA trainings.
- Border Programs – “Border Blitz” ADEQ conducted border crossing inspections at the San Luis border crossing. The Arizona Environmental Task Force included ADEQ and nine other agencies, including DoJ, U.S. Customs, Arizona Attorney General, Department of Agriculture, Pima County Fire Department and EPA CID. The purpose of the Blitz was to have focused hazardous waste inspections at the border. The paperwork for these trucks was examined and waste samples were collected.
- Forty three tips and complaints were received and followed up on by ADEQ.

• **Best Practices:**

ADEQ's HWICU inspects its LQG universe every two years. They require that all LQG's submit a Facility Annual Report (FAR) to better track the LQG universe.

- ADEQ inspects its LQG universe approximately every two years and permitted TSD's annually, all interim status TSD facilities every two years, which exceeds the national requirements and commitments.
- ADEQ has an in house requirement to send all inspection reports out within 30 working days of the inspection. This exceeds the 45 day timeline for inspection reports agreed upon by EPA and ADEQ.
- ADEQ sends monthly notices to facilities to keep them abreast of case progress.
- ADEQ uses a data entry sheet to ensure that all information is entered into RCRAInfo in a timely manner.
- ADEQ requires that all LQG's submit a Full Annual Report (FAR) to the waste division and requires a simplified annual report by all SQGs and registered CESQGs.
- ADEQ has a very clear case review process. The elevation of cases is well documented in their transmittal slips.

Water NPDES Program

▪ **Accomplishments:**

- In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other state law violations.

- In 2008, ADEQ settled a CWA case filed against Kiewit Construction for violations of ADEQ's Construction General Permit and unauthorized point source discharges to tributaries of Christopher Creek. As a result of the civil suit, Kiewit paid a penalty of \$80,000.00.
- In 2007, ADEQ established the Compliance Assurance Unit within its Water Quality Division Compliance Section, to provide compliance oversight of the biosolids, concentrated animal feeding operations (CAFOs), and pretreatment programs. This increased program outreach, facility inspections, identification of violations, and issuance of enforcement actions. However, severe resource cutbacks in 2009 may result in staff cuts from this unit.
- From 2006 through 2008, ADEQ steadily improved their storm water inspection coverage, nearly doubling the number of industrial inspections from 64 to 104 and tripling the number of construction inspections from 86 to 266.
- In 2007, ADEQ commenced annual field inspector training, covering review of regulated facilities' analytical data and new regulatory requirements, among other subjects.
- ADEQ established a web-based SMART NOI system for its storm water program, which provides facility operators with a method to submit Notices of Intent (NOIs) and access other e-forms online.
- In July of 2009, ADEQ began uploading enforcement actions into EPA's Permit Compliance System (PCS) database.
- For NPDES majors, ADEQ inspected 56 of its 64 facilities; 88% of the national goal—exceeding the national average of 65%, and exceeding its workplan commitment of 55.

▪ **Best Practices :**

- ADEQ issued 97 percent of its inspections reports in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of the reports.
- ADEQ developed at least six thorough inspection checklists for NPDES major and minor facilities, biosolids, multi-sector general permits (MSGP), common Storm Water Pollution Prevention Plan (SWPPP), and industrial storm water facilities.

B. SUMMARY OF RESULTS

Waste Program

There were no remaining incomplete actions in the SRF tracker for the RCRA portion of the pilot SRF. ADEQ HWICU has followed up on all of the issues identified in Round 1 of the State Review Framework. There were some elements identified as areas for improvement that could be further refined, however ADEQ HWICU made progress on all recommendations from Round 1 of the State Review Framework.

The metrics for penalty assessments have changed slightly since the initial review. While ADEQ has improved their penalty assessments by considering economic benefit and including a penalty calculation sheet for elevated cases, since the first SRF. ADEQ still needs to improve the method of retention for initial and

final penalty calculations, document economic benefit even when negligible, and provide justification for initial and final penalty calculations. Also enforcement action times need to be improved upon. It appears that ADEQ did not have a RCRA civil attorney at the Arizona Attorney General's office therefore there was a delay in settlements. ADEQ has subsequently retained a full-time RCRA attorney and is currently addressing the backlog.

Element 1: Data completeness: degree to which data in national system reflect regulated universes, state activities and compliance monitoring findings.

- a. Finding 1-1 ADEQ's active LQG universe is 180 based on annual submittals from Arizona's LQG's. The national system, RCRAInfo, indicates that ADEQ's universe is 265. ADEQ attributes the discrepancy to their database failing to automatically deactivate temporary EPAID numbers and re-opening deactivated EPA numbers.
- b. Recommendation 1-1 ADEQ was already working on correcting the RCRAInfo universe. They identified approximately 400 facilities that should not have been opened. ADEQ recommended they go through the remaining universe during a follow-up meeting on 12/1/2009, to identify any remaining discrepancies. The LQG universe is fluid, and will require annual maintenance to identify facilities that are no longer LQG.
- c. Finding 1-2 ADEQ's inspection numbers did not coincide with those pulled from the national system. The number of completed inspections is significantly higher than reflected by the national system. ADEQ attributed this to PDEQ's inspections not being counted.
- d. Recommendation 1-2 EPA recommends ADEQ follow-up with discrepancies, ensure that PDEQ data is correctly entered.
- e. Finding 1-3 ADEQ's 5 year inspection coverage for LQG's is incorrectly reflected in the data pull, this can be attributed to the changing universe, overlapping fiscal years and the incorrect LQG count in the national system.
- f. Recommendation 1-3 see recommendation 1-1

Element 2: Data Accuracy: degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.)

- a. Finding 2-1 ADEQ's inspection reports accurately documented the condition at the time of inspection of each facility. ADEQ maintains meticulous photo logs in their reports enabling the reader to easily assess the condition of the facility during the time of inspection.
- b. Recommendation 2-1 There is no recommendation for improvement, ADEQ should be commended on the quality of their reports.

Element 3: Timeliness of Data Entry: degree to which required data was entered into the nation database in a timely manner.

- a. Finding 3-1 ADEQ enters their data directly into RCRAInfo. Inspector's fill out a detailed data entry form and submit it to their designated RCRAInfo data entry person, within two days after the inspection.
- b. Recommendation 3-1 ADEQ promptly enters data into the RCRAInfo tracking system and should be commended on their timeliness.

Element 4: Completion of Commitments: degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.

- a. Finding 4-1 ADEQ has two planned commitments in its work plan, they are LQG inspections and TSD inspections. ADEQ committed to 33 LQG inspections and completed 38 in FY 2007, they committed to inspect the TSD universe in 2 years and inspected their TSD universe in FY2007.
- b. Recommendation 4-1 There are no recommendations for improvement, ADEQ should be commended on their inspection coverage of the LQG and TSD universe.
- c. Finding 4-2 ADEQ has additional commitments including targeting and compliance assistance.
- d. Recommendation 4-2 There are no recommendations for improvement

Element 5: Inspection Coverage: degree to which state completed the universe of planned inspections/compliance evaluations (addressing core Inspection Coverage. Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).

- a. Finding 5-1 ADEQ has two planned commitments in its work plan, they are LQG inspections and TSD inspections. ADEQ committed to 33 LQG inspections and completed 38 in FY 2007, they committed to inspect the TSD universe in 2 years and inspected their TSD universe in FY2007.
- b. Recommendation 5-1 There are no recommendations for improvement, ADEQ should be commended on their inspection coverage of the LQG and TSD universe.
- c. Finding 5-2 ADEQ committed to inspecting 18% of its actual LQG universe as determined by annual facility updates. In FY07 ADEQ inspected 21% of its LQG universe in FY07.
- d. Recommendation 5-2 There are no recommendations for improvement.
- e. Finding 5-3 ADEQ committed to inspecting its TSD universe every two years. ADEQ inspected 100% of its TSD universe in FY07.
- f. Recommendation 5-3 There are no recommendations for improvement.

Element 6: Quality of Inspection or Compliance Evaluation Reports: degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

- a. Finding 6-1 ADEQ's compliance reports clearly documented the observations made by inspectors and provided clear evidence of violations.
- b. Recommendations 6-1 There are no recommendations for improvement
- c. Finding 6-2 All of ADEQ's reports reviewed provided sufficient documentation to determine compliance at the facility.
- d. Recommendation 6-2 One of the files, Trendwood did not contain all of the necessary information for determination, however, it was based off of a tip and complaint and became a SNY. The file however, did not have the inspection associated with the CAFO. The inspection was in another file.
- e. Finding 6-3 ADEQ completed 63% of the files reviewed in less than 30 days and 88% in less than 45 days.
- f. Recommendation 6-3 There are no recommendations for improvement

Element 7: Identification of Alleged Violations: degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

- a. Finding 7-1 All of ADEQ's inspection reports led to accurate compliance determinations.
- b. Recommendation 7-1 There are no recommendations for improvement
- c. Finding 7-2 88% of the SNC's reviewed were reported timely to the national data base. Some of the SNC's had incorrect day zero dates; timeliness was determined using the inspection date as day zero.
- d. Recommendation 7-2 Ensure that the correct day zero is entered.

Element 8: Identification of SNC and HPV: degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.

- a. Finding 8-1 Nine SNC's were reviewed and all of them were accurately identified. Two of the inspections were the result of tips and complaints and one of them had an order to clean up instead of a penalty violation.
- b. Recommendation 8-1 There are no further recommendations for improvement

Element 9: Enforcement Actions Promote Return to Compliance. Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

- a. Finding 9-1 Eight of the nine formal enforcement files reviewed had requirements for injunctive relief. Three of the facilities had settled and paid the penalty and five were in settlement. One of the facilities was ordered to clean up contamination and was not listed as a SNC because the contamination was from a previous operator.
- b. Recommendation 9-1 There appears to be a lag from referral to settlement. This was discussed with ADEQ and there has since been an attorney assigned to RCRA cases. The settlement time has improved since FY07.
- c. Finding 9-2 Seven secondary violator files were reviewed all of them had return to compliance information, two had draft consent orders entered into RCRAInfo.
- d. Recommendation 9-2 There is no recommendation for improvement

Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

- a. Finding 10-1 Of the 9 files reviewed with formal enforcement 33% of the actions were referred to the Attorney General. None of them were settled in accordance with policy time frames.
- b. Recommendation 10-1 During FY07 the Arizona Attorney General's office was without a RCRA civil attorney resulting in a case backlog; the AAG has subsequently retained a full-time RCRA Attorney.
- c. Finding 10-2 All files reviewed with secondary violations were sent notice in accordance with policy.
- d. Recommendation 10-2 There are no recommendations for improvement.

Element 11: Penalty Calculation Method: degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

- a. Finding 11-1 ADEQ does not keep penalty calculations in the case files.
- b. Recommendation 11-1 ADEQ was advised to include penalty calculations in files under an enforcement confidential cover
- c. Finding 11-2 ADEQ was not always receiving the penalty calculation from the AG's office once referred.
- d. Recommendation 11-2 It was again recommended a copy be kept in the file under an enforcement confidential cover
- e. Finding 11-3 ADEQ utilizes a penalty computation worksheet that lists economic benefit and gravity based calculations. However, the economic benefit was zero in the penalty calculations reviewed. ADEQ explained that when the economic benefit is negligible a zero was entered. None of the penalty calculations reviewed had an economic benefit calculation (all were negligible according to ADEQ) so an additional penalty calculation was reviewed to ensure economic benefit is considered in penalty calculations.

- f. Recommendation 11-3 ADEQ was advised to provide the calculation or narrative associated with economic benefit being negligible

12. Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

- a. Finding 12-1 The penalty calculations were not kept in the case files. In some cases the initial penalty could not be found.
- b. Recommendation 12-1 ADEQ was advised to keep penalty calculations in the files under an enforcement confidential cover
- c. Finding 12-2 The 3 files reviewed with injunctive relief had evidence of the penalty being collected
- d. Recommendation 12-2 There is no further recommendations for improvement

Water (NPDES) Program

Elements 1-3: Data Management

Finding 1-1: The data ADEQ routinely enters into EPA's national PCS database is complete, accurate and timely.

Finding 1-2: During the review period, ADEQ did not enter its enforcement actions into EPA's PCS database.

Recommendation 1-2: ADEQ should expand its data entry into PCS to include enforcement actions against general permittees and unpermitted dischargers. EPA recognizes the extra burden of creating facility records in PCS for enforcement actions against general permittees and unpermitted facilities.

Finding 1-3: ADEQ does not enter data into PCS for its biosolids inspections or inspections at general permittees, including storm water permittees and CAFOs. EPA policy does not require entry of general permittees inspection data into EPA's national database.

Finding 1-4: ADEQ is not coding permit discharge limits or entering Discharge Monitoring Report (DMR) data into PCS for minor permittees. Although it is not required under EPA's database management policy, many States enter minor facility limits and DMRs into EPA's national databases (PCS or ICIS-NPDES).

Recommendation 1-4: EPA will consult with ADEQ about options for tracking minor facility permit limits and DMRs in PCS. EPA recognizes tracking minor facility limits and DMRs is not required under EPA's data management policies.

Elements 4-8: Inspections and Compliance Evaluation

Finding 4-1: ADEQ met 24 of the 32 commitments in its FY07 grant workplan. ADEQ fell short of its commitments to inspect minor facilities, industrial storm water permittees, CAFOs and biosolids land application sites.

Finding 5-1: ADEQ fell short of its grant workplan commitments for certain categories of inspections in FY07. However, ADEQ increased its inspection staff in FY08 and had excellent coverage in all categories of inspections, meeting or exceeding workplan commitments and EPA's national inspection goals and national averages for all States.

Finding 6-1: Most of ADEQ's inspection reports properly document observations and include accurate description of observations. ADEQ uses several well-designed inspection checklists to aid inspectors in writing thorough inspection reports.

Finding 6-2: ADEQ inspection reports are completed in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of reports.

Finding 7-1: ADEQ does a good job of identifying violations during inspections and tracking these violations in its AZURITE database. ADEQ identifies major facility effluent limit violations by tracking DMRs in AZURITE and PCS.

Finding 7-2: Although ADEQ uses its AZURITE database to track violations identified during inspections, it does not enter these violations into EPA's PCS database. This is a data management issue related to use of EPA's national database and does not hinder ADEQ's ability to identify and track violations.

Recommendation 7-2: EPA will consult with ADEQ about options for uploading single-event violations to PCS.

Finding 8-1: During FY07, 14% of Arizona's major facilities were in Significant Non-Compliance (SNC), better than the national average SNC rate of 22.8%.

Finding 8-2: During FY07, ADEQ errors in its Quarterly Non-Compliance Report (QNCR) resulted in erroneously flagging several facilities as SNC. ADEQ has since improved its management of the QNCR and is now accurately identifying SNCs.

Finding 8-3: ADEQ has procedures for identifying and tracking State response to significant violations discovered through inspections, however this information is not entered into EPA's PCS database.

Elements 9-12: Enforcement

Finding 9-1: During the FY07 review period, ADEQ issued 80 enforcement actions, including 50 Notices of Opportunity to Correct (NOC), 27 Notices of Violation (NOV) and 3 Compliance Orders. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other State law violations. In June 2008, ADEQ settled a case against Kiewit Construction in which the discharger paid an \$80,000 penalty for violations of Arizona's general permit for storm water discharges from construction sites.

Finding 9-2: In accordance with ADEQ's Compliance and Enforcement Policy, ADEQ's enforcement actions are generally informal actions which do not establish enforceable deadlines for discharger return to compliance.

Recommendation 9-2: EPA recommends ADEQ examine its enforcement policy and procedures to explore ways to increase the use of formal enforcement actions for Clean Water Act violations.

Finding 9-3: In several enforcement cases reviewed by EPA, violations continued for prolonged periods without ADEQ escalating its enforcement response.

Recommendation 9-2: ADEQ should escalate enforcement actions against recalcitrant violators or for violations that continue months after issuance of initial enforcement actions.

Finding 10-1: Arizona did not take formal enforcement action against 9 major facilities that were in SNC during FY07. Five of the 9 SNC facilities had SNC lasting for two quarters.

Recommendation 10-1: ADEQ should take timely formal enforcement action against facilities in SNC.

Finding 11-1: EPA reviewed one penalty action taken by ADEQ in 2007 and determined ADEQ assessed and collected an appropriate penalty.

C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS

Arizona should be commended for their efforts cross media cooperation and information sharing. They have demonstrated this in inspection report status, tip and complaint follow ups, training, and clean up efforts. They have also worked with other programs in initiatives such as the "border blitz which involved several federal and state agencies across different media. Adding a cross media category to one of the status sheets may help to track their efforts.

**Arizona Department of Environmental Quality
Resource Conservation and Recovery Act
Compliance & Enforcement Program
FY 2007**

**STATE REVIEW FRAMEWORK
FINAL REPORT**

September 30, 2009

**Conducted by the U.S. Environmental Protection Agency
Region 9**

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- G. CORRESPONDENCE

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• **Element 13: N/A**

B. SUMMARY OF RESULTS

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Element 3: Timeliness of Data Entry: degree to which required data was entered into the nation database in a timely manner.

- c. Finding 3-1 ADEQ enters their data directly into RCRAInfo. Inspector's fill out a detailed data entry form and submit it to their designated RCRAInfo data entry person, within two days after the inspection.
- d. Recommendation 3-1 ADEQ promptly enters data into the RCRAInfo tracking system and should be commended on their timeliness.

Element 4: Completion of Commitments: degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.

- e. Finding 4-1 ADEQ has two planned commitments in its work plan, they are LQG inspections and TSD inspections. ADEQ committed to 33 LQG inspections and completed 38 in FY 2007, they committed to inspect the TSD universe in 2 years and inspected their TSD universe in FY2007.
- f. Recommendation 4-1 There are no recommendations for improvement, ADEQ should be commended on their inspection coverage of the LQG and TSD universe.
- g. Finding 4-2 ADEQ has additional commitments including targeting and compliance assistance.
- h. Recommendation 4-2 There are no recommendations for improvement

Element 5: Inspection Coverage: degree to which state completed the universe of planned inspections/compliance evaluations (addressing core Inspection Coverage. Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).

- g. Finding 5-1 ADEQ has two planned commitments in its work plan, they are LQG inspections and TSD inspections. ADEQ committed to 33 LQG inspections and completed 38 in FY 2007, they committed to inspect the TSD universe in 2 years and inspected their TSD universe in FY2007.
- h. Recommendation 5-1 There are no recommendations for improvement, ADEQ should be commended on their inspection coverage of the LQG and TSD universe.
- i. Finding 5-2 ADEQ committed to inspecting 18% of its actual LQG universe as determined by annual facility updates. In FY07 ADEQ inspected 21% of its LQG universe in FY07.
- j. Recommendation 5-2 There are no recommendations for improvement.
- k. Finding 5-3 ADEQ committed to inspecting its TSD universe every two years. ADEQ inspected 100% of its TSD universe in FY07.
- l. Recommendation 5-3 There are no recommendations for improvement.

Element 6: Quality of Inspection or Compliance Evaluation Reports: degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

- g. Finding 6-1 ADEQ's compliance reports clearly documented the observations made by inspectors and provided clear evidence of violations.
- h. Recommendations 6-1 There are no recommendations for improvement
- i. Finding 6-2 All of ADEQ's reports reviewed provided sufficient documentation to determine compliance at the facility.
- j. Recommendation 6-2 One of the files, Trendwood did not contain all of the necessary information for determination, however, it was based off of a tip and complaint and became a SNY. The file however, did not have the inspection associated with the CAFO. The inspection was in another file.
- k. Finding 6-3 ADEQ completed 63% of the files reviewed in less than 30 days and 88% in less than 45 days.
- l. Recommendation 6-3 There are no recommendations for improvement

Element 7: Identification of Alleged Violations: degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

- e. Finding 7-1 All of ADEQ's inspection reports led to accurate compliance determinations.
- f. Recommendation 7-1 There are no recommendations for improvement
- g. Finding 7-2 88% of the SNC's reviewed were reported timely to the national data base. Some of the SNC's had incorrect day zero dates; timeliness was determined using the inspection date as day zero.
- h. Recommendation 7-2 Ensure that the correct day zero is entered.

Element 8: Identification of SNC and HPV: degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.

- c. Finding 8-1 Nine SNC's were reviewed and all of them were accurately identified. Two of the inspections were the result of tips and complaints and one of them had an order to clean up instead of a penalty violation.
- d. Recommendation 8-1 There are no further recommendations for improvement

Element 9: Enforcement Actions Promote Return to Compliance. Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

- e. Finding 9-1 Eight of the nine formal enforcement files reviewed had requirements for injunctive relief. Three of the facilities had settled and paid the penalty and five were in settlement. One of the facilities was ordered to clean up contamination and was not listed as a SNC because the contamination was from a previous operator.
- f. Recommendation 9-1 There appears to be a lag from referral to settlement. This was discussed with ADEQ and there has since been an attorney assigned to RCRA cases. The settlement time has improved since FY07.
- g. Finding 9-2 Seven secondary violator files were reviewed all of them had return to compliance information, two had draft consent orders entered into RCRAInfo.
- h. Recommendation 9-2 There is no recommendation for improvement

10. Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

- e. Finding 10-1 Of the 9 files reviewed with formal enforcement 33% of the actions were referred to the Attorney General. None of them were settled in accordance with policy time frames.
- f. Recommendation 10-1 During FY07 the Arizona Attorney General's office was without a RCRA civil attorney resulting in a case backlog; the AAG has subsequently retained a full-time RCRA Attorney.
- g. Finding 10-2 All files reviewed with secondary violations were sent notice in accordance with policy.
- h. Recommendation 10-2 There are no recommendations for improvement.

11. Penalty Calculation Method: degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.

- g. Finding 11-1 ADEQ does not keep penalty calculations in the case files.
- h. Recommendation 11-1 ADEQ was advised to include penalty calculations in files under an enforcement confidential cover
- i. Finding 11-2 ADEQ was not always receiving the penalty calculation from the AG's office once referred.
- j. Recommendation 11-2 It was again recommended a copy be kept in the file under an enforcement confidential cover
- k. Finding 11-3 ADEQ utilizes a penalty computation worksheet that lists economic benefit and gravity based calculations. However, the economic benefit was zero in the penalty calculations reviewed. ADEQ explained that when the economic benefit is negligible a zero was entered. None of the penalty calculations reviewed had an economic benefit calculation (all were

negligible according to ADEQ) so an additional penalty calculation was reviewed to ensure economic benefit is considered in penalty calculations.

1. Recommendation 11-3 ADEQ was advised to provide the calculation or narrative associated with economic benefit being negligible

12. Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

- e. Finding 12-1 The penalty calculations were not kept in the case files. In some cases the initial penalty could not be found.
- f. Recommendation 12-1 ADEQ was advised to keep penalty calculations in the files under an enforcement confidential cover
- g. Finding 12-2 The 3 files reviewed with injunctive relief had evidence of the penalty being collected
- h. Recommendation 12-2 There is no further recommendations for improvement

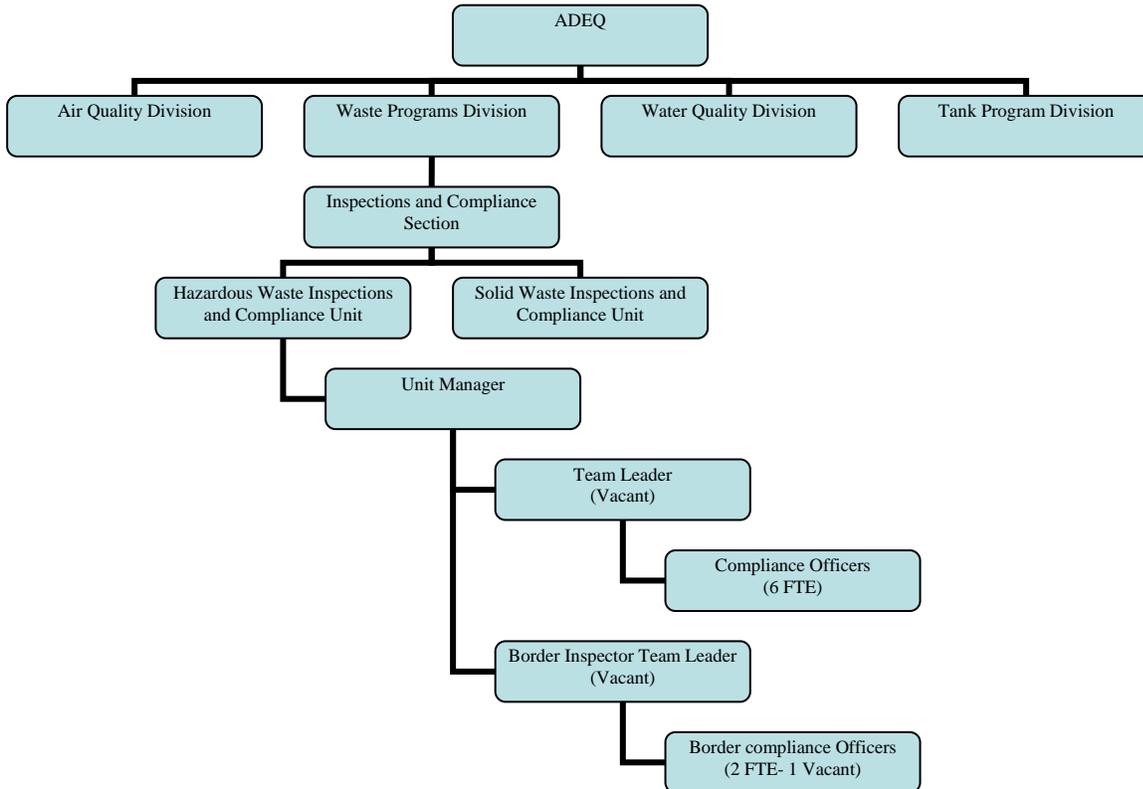
C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIOHNS

Arizona should be commended for their efforts cross media cooperation and information sharing. They have demonstrated this in inspection report status, tip and complaint follow ups, training, and clean up efforts. They have also worked with other programs in initiatives such as the “border blitz which involved several federal and state agencies across different media. Adding a cross media category to one of the status sheets may help to track their efforts.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

A. GENERAL PROGRAM OVERVIEW

• Agency Structure



The functions of the hazardous waste program are divided across four Sections: Permits, Inspections and Compliance, Planning and Outreach; and Technical Support. These program administration tasks are carried out as follows:

- The Permits Section Manager is responsible for hazardous waste permitting and corrective action activities;
- The Inspections & Compliance Section Manager is responsible for inspections and enforcement activities at hazardous and solid waste facilities;
- The GIS & IT Unit Manager is responsible for hazardous waste data
- The Pollution Prevention Unit Manager is responsible for the P2 Program. Support is provided by section secretaries and P and PS II on the Business Team and Community Involvement staff in the Planning and Outreach Section
- The Permits Section Manager is also the RCRA Grant Coordinator

ADEQ is divided into three regions (central, southern, northern); however, the RCRA program is administered wholly from the central office located in Phoenix, AZ.

• Compliance/Enforcement Program Structure:

The RCRA compliance and enforcement program is generally centralized in regards to the various medias involved. There is a slight de-centralization for the border region compliance officers; however all compliance officers handle all media types at any location throughout the state as required.

• Roles and responsibilities:

The ADEQ HWICU handles all compliance and enforcement activities throughout the state except for compliance activities being managed by the Pima County DEQ, which is delegated to manage RCRA. However, ADEQ handles all escalated enforcement arising from PDEQ activities.

The HWICU commonly coordinates with the following agencies:

- 1) Pima County DEQ, ADEQ provides oversight and performs escalated enforcement. This role is coordinated directly with the PDEQ in accordance with a Delegation Agreement.
 - 2) Arizona Attorney Generals Office, civil law, the AZAG leads all settlement negotiations and court actions for ADEQ. This includes filing Judgments and Complaints.
 - 3) Arizona Attorney Generals Office, criminal law, the AZAG criminal division handles cases ADEQ believes rise to the level of a criminal violation. ADEQ acts in a supportive role.
- Pima County Department of Quality inspects facilities in Pima County, including the city of Tucson. ADEQ provides oversight and handles cases requiring judicial enforcement via referral from PDEQ.
 - ADEQ has one border inspector position who focuses on compliance related to imports/exports and at facilities in the border region (within 100km of border)
 - Inspectors reply to all tips and complaints in addition to their scheduled inspections. They have 5 business days from receipt of the complaint to respond and 30 days from the inspection to mail out the report. Within 45 calendar days from the date of the inspection a Notice of Violation or Notice of Correction is to be drafted for management review.
 - Once a Case Development Memorandum is drafted it is sent to the Attorney General's Office, within 180 calendar days of the date ADEQ determined penalty non-compliance has occurred.
 - ADEQ generally re-inspects within 2 years to determine long-term compliance.

• Resources:

- The HWICU has one unit manager, six inspectors, and one data entry person. Pima County Department of Quality has one inspector and is responsible for facilities in Pima County, including the city of Tucson. In the central office, each inspector is required to inspect two TSD's annually and five LQG's annually, every person rotates on the compliance team. The compliance team consists of three team members and is responsible for responding to tip and complaints. The inspection team also inspects SQG's and CESQG's. ADEQ's responsibilities are added to with initiatives; in FY09 they inspected 31 platers resulting in 22 cases.
- ADEQ has equipment limitations, including cameras and GPS hand held units. They do not have laptops or the ability to look up information in the field.

• Staffing/Training:

- ADEQ's HWIC unit is currently down six inspectors, four at the ADEQ central office and two border inspectors. ADEQ expects to lose two inspectors in FY10 and replace three.
- ADEQ inspectors are required to receive the 40 hour OSHA Health and Safety training and 8 hour MSHA Mine Safety and Health training. They receive Lion's Technology 16 hour RCRA training every two years. The inspectors receive in house training on case development annually.

- ADEQ has been more successful in retaining inspectors than in previous years. FY07 was a transitional year for management and may attribute for the high rate of turnover. The improvement in retention may be attributed to the changes in management and the structure now provided to inspectors. ADEQ has also made the job more interesting with an increased capability to sample and therefore enforce. In general the work atmosphere has improved.

• **Data reporting systems/architecture:**

ADEQ reports the MDRs in two ways:

- 1) Compliance and enforcement data is entered directly by ADEQ personnel into RCRAInfo
- 2) Handler information is entered into RCRAInfo via uploads from ADEQs data management system “AZURITE;” ADEQ is currently working to develop an AZURITE module that will also upload the compliance and enforcement data automatically.

B. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS

ADEQ prioritizes facilities based upon generator class, span of time since the last inspection, industry type, and tips and complaints from the public and regulated community. All tips and complaints are responded to within 5 working days. LQGs are inspected approximately every 2-3 years. TSDs and interim status TSDs are inspected annually and every other year respectively. Industries with known compliance problems are inspected more often than industries without compliance problems.

ADEQ has pursued several initiatives based on these priorities, such as the radiator shop initiative, the “border blitz” and most recently a plating initiative, resulting in 31 inspections and 22 cases. ADEQ is currently focusing on working with federal agencies to consistently monitor hazardous waste entering the U.S. at the U.S./ Mexico ports of entry in Arizona.

C. PROCESS FOR SRF REVIEW

• **Review Period:** The RCRA Hazardous Waste Inspections and Compliance unit was reviewed in 2009, utilizing data from FY 2007. The Federal Fiscal Year was used for the purposes of review. Where dates did not match up because of the states overlapping Fiscal Year, documentation or data that most overlapped was used.

• **Communication with the State:**

The kickoff letter was sent on 9/10/2008, however it was not received by the HWICU. An email was sent to Radall Matas, manager of the HWICU in October of 2008 when no comments were received from the preliminary data pull. The data was pulled again on 10/8/2008 and a kick off meeting with Randall Matas on 11/21/2008 yielded comments to the preliminary data analysis. The file selection was provided to ADEQ prior to the transmission letter. The onsite review was 2/2-4/2009. In addition to reviewing files, the reviewer observed ADEQ’s daily operations including response to a tip. The reviewer did not accompany ADEQ on inspections because ADEQ and R9 RCRA enforcement officers conduct inspections together annually. An out briefing addressing the findings from the file review was conducted on 4/4/2008. An action item list was later sent to ADEQ and all findings in this report were addressed in a follow-up meeting and via email with ADEQ staff. ADEQ reviewed a draft of this report. The chart below details the communication between the R9 RCRA reviewer and ADEQ.

2009 State Review Framework Timeline for EPA/ADEQ (note: this review is of FY2007 data)
I:\State enforcement oversight\ADEQ

Action Item	Description	Data Due	Completion Date	Status	Comments
Kick Off Letter	Initiation of SRF process from RA to head of ADEQ		9/10/2008	√	The kickoff letter was not received by RCRA HWICU, it was resent on
Data pulled and saved	It is critical we pull and save the data so that there is record of agreed upon data before the review		10/8/2008	√	
Data posted to the Tracker	Each step much be posted on the OTIS Tracker		12/1/2008		
Kick off meeting	Discuss and agree upon process for review of draft and agreement on findings and recommendations		11/21/2008	√	Met with Randall Matas of ADEQ RCRA Enforcement, did not have multi media kick off
Preliminary Data Analysis (PDA) Review	State review and comment, state provides corrections and fixes the data in the system		11/5/2008	√	
File Selection	Determine what files are to be reviewed based on PDA		10/08/2008	√	The state was late providing comments on data (because it was not received by those responsible for the review), therefore the initial file selection was done without the States input, however after receiving the comments, it does not change the selection.
Preliminary Data Analysis/ File Selection with State	Meet with state to discuss PDA and update/provide file selection		scheduled 12/1/2008	√	Added files to the file review per our meeting, will send ADEQ an electronic copy of the selection so they can get PDEQ files prior to the onsite review. Official letter to follow with the same information and a date for onsite, per HQ.
Input PDA and File selection into the Tracker	Each step much be posted on the OTIS Tracker		12/2/2008		

Signed Preliminary Data Analysis transmittal letter from region to state	E. Resource Conservation and Recovery Act (RCRA) Preliminary Data Analysis findings and list of selected files <ul style="list-style-type: none"> • Written data metrics analysis and discussion of key issues • The data metrics Preliminary Data Analysis worksheet used in the analysis (including the extra columns indicating state data discrepancies when applicable) • Explanation of the file selection process • List of files selected • Element 13 Guidance was added 		1/28/2009	√	This was sent via email and overnight. ADEQ was advised of the letter and its contents. The file selection was sent via email on 1/5/09. ADEQ was given the option to postpone the Onsite review should the contents of the Transmission letter warranted more time for review. They elected to keep the scheduled date of 2/2/09 for the review.
Onsite Review	Examine and analyze state inspection and enforcement files at state office, discuss preliminary finding and recommendations at conclusion of file reviews		2/2/2009 - 2/4/09	√	Coordinating with Ken Greenberg Jenee Gavette of water, unable to coordinate the Onsite visit RCRA will go out on 2/2/09
Follow up to recommendations	Part of Report, must have an agreement for follow-up for each action item, must be entered into the Tracker		Discussed Issues during an post site review; met with ADEQ on 5/8/2009 in preparation for draft release	√	ADEQ was sent a list of action items from the site review, asked to provide additional information on background and alerted that the draft would be compiled and sent to them by June 15.
Draft Reports to SRF Coordinator	The draft will go out after it is reviewed by RCRA Management, it will be submitted to them on 5/15	5/15/2009	5/25/2009	√	
Draft Report sent to States and OECA for review		6/30/2009			
Input the reports, recommendations and suggested plan for addressing the recommendations into the Tracker					
Final Report		9/30/2009			

Lead State Contact for Review

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III: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the initial review of Arizona’s RCRA compliance and enforcement programs, Region 9 and Arizona identified a number of actions to be taken to address the issues noted. The table below shows the status of progress toward completing those actions. There were no remaining incomplete actions. ADEQ HWICU has followed up on all of the issues identified in Round 1 of the State Review Framework. The information below was provided in word format and not available in the SRF tracker as Arizona was the pilot state. The information has been converted to excel and is displayed below.

Region	State	Status	Media	Title	Finding	E#
Region 09	AZ - Round 1 Total: C0	ADEQ estimates the universe of LQGs to be inspected by comparing the amount of hazardous waste generators manifest and the generator’s registration status. This analysis was used to determine the number of active LQGs to be 182 in FY06 and 171 in FY07.	RCRA	Element 1: completion of universe of inspections	The universe of LQG is most likely smaller than the 238 indicated in OTIS; ADEQ and EPA are working to update this number in FY05.	E1
Region 09	AZ - Round 1 Total: C0	The timeliness of data entry to RCRAInfo has markedly improved. The data in RCRAInfo now accurately reflects the state’s inspection and enforcement activities.	RCRA	Element 4: Significant violations accurately identified and reported to national database	During ADEQ’s 2005 fiscal year, they went from a translator state to a direct data entry state. ADEQ directly entering data into RCRAInfo will improve the timeliness of the data EPA receives.	E4
Region 09	AZ - Round 1 Total: C0	Settlements are now consistently entered into RCRAInfo and formal actions are completed in less time than in the past. For FY07, the average time from the date of inspection until a facility is returned to compliance after a formal enforcement action was	RCRA	Element 6: Timely and appropriate enforcement actions	EPA & ADEQ discussed the issue of settlement amounts not getting into RCRAInfo. ADEQ will do a better job in the future. The problem in the past has been the long timeframes from the inspection date until formal action has settled, due to a backlog of ca	E6
Region 09	AZ - Round 1 Total: C0	ADEQ considers economic benefit when assessing penalties for all formal actions.	RCRA	Element 7: penalties include gravity and economic benefit calculations, using BEN or similar state model.	EPA has directed ADEQ to consider economic benefit in all future penalty assessments.	E7
Region 09	AZ - Round 1 Total: C0	Penalty calculations are now included in the enforcement confidential case files.	RCRA	Element 8: Final enforcement actions collect economic and gravity portions of penalty.	In September 2004, ADEQ staff attended BEN Training and will use this software to estimate economic benefit when appropriate. EPA and ADEQ discussed the lack of information in the files regarding the penalty calculation. ADEQ agreed to include penalty c	E8
Region 09	AZ - Round 1 Total: C0	The timeliness of entering return to compliance and settlement information has improved. In addition, ADEQ’s familiarity and use of RCRAInfo has assisted EPA with identifying bugs in the release of RCRAInfo version 3.	RCRA	Element 10: MDRs are timely	ADEQ is working to improve their performance on entering return to compliance and settlement information. As the average case life-cycle decreases, the likelihood of this information being added to RCRAInfo will increase. During ADEQ’s 2004 fiscal year,	E10
Region 09	AZ - Round 1 Total: C0	ADEQ continues to enter SNC-yes flags (SNY) into RCRAInfo. They track facilities’ return to compliance and are doing a better job of entering the SNC-no flag (SNN) once a facility returns to compliance.	RCRA	Element 11: MDRs are accurate	EPA agreed to ADEQ’s approach on when to enter the SNC flag, but warned ADEQ that there may be future discussion of this issue within EPA. ADEQ agreed to improve their results in removing the SNC flag in a timely manner. Overall, the data in RCRAInfo has	E11

Region 09	AZ - Round 1 Total: C0	Final actions and penalty amounts are now consistently entered into RCRAInfo.	RCRA	Element 12: MDRs are complete	The issue of ADEQ not entering final actions and penalty amounts into RCRAInfo has been identified and will be corrected.	E12
Region 09	AZ - Round 1 Total: C0	Final actions and penalty amounts are now consistently entered into RCRAInfo.	RCRA	OTHER ISSUES	An ever-present issue with Arizona is the seemingly constant attrition of inspectors; they usually last two to three years and then move on. The reason for this attrition is two-fold: (1) the salaries are below the market rate and (2) raises for all ADEQ	

IV. FINDINGS

Findings represent the Region’s conclusions regarding the issue identified. Findings are based on the Initial Findings identified during the data or file review, as well as from follow-up conversations or additional information collected to determine the severity and root causes of the issue. There are four types of findings, which are described below:

Finding	Description
<p>Good Practices</p>	<p>This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.</p>
<p>Meets SRF Program Requirements</p>	<p>This indicates that no issues were identified under this Element.</p>
<p>Areas for State* Attention *Or, EPA Region’s attention where program is directly implemented.</p>	<p>This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.</p>
<p>Areas for State * Improvement – Recommendations Required *Or, EPA Region’s attention where program is directly implemented.</p>	<p>This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.</p>

Element 1: Data completeness, Degree to which data in national system reflect regulated universes, state activities and compliance monitoring findings.		
	Finding	ADEQ's active LQG universe is 180 based on annual submittals from Arizona's LQG's. The national system indicates that ADEQ's universe is 265. The actual universe according to ADEQ is 180. ADEQ attributes the discrepancy to their database failing to automatically deactivate temporary EPAID numbers and re-opening deactivated EPA numbers. This discrepancy also negatively impacts the Five-year inspection coverage percentages for LQG's.
	Is this finding a(n) (select one):	() Good Practice () Meets SRF Program Requirements (X) Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	No Recommendation is provided because the state is currently addressing this. A pull of the LQG universe compared to the actual LQG universe determined by the annual submittals of the FA will determine follow-up.
	Metric(s) and Quantitative Value	1a3 - Number of active LQG's in RCRAInfo 5cc Five-year inspection coverage
	State Response	ADEQ was already working on correcting the RCRAInfo universe. They identified approximately 400 facilities that should not have been opened. ADEQ recommended they go through the remaining universe during a follow-up meeting on 12/1/2009, to identify any remaining discrepancies. The LQG is fluid, and will require annual maintenance to identify facilities that are no longer LQG.
	Actions	RCRA pull to verify updated universe
Element 1: Data completeness, Degree to which data in national system reflect regulated universes, state activities and compliance monitoring findings.		
1-2	Finding	ADEQ's inspection numbers did not coincide with those pulled from the national system. The number of completed inspections is significantly higher than reflected by the national system. ADEQ attributed this to PDEQ's inspections not be counted.
	Is this finding a(n) (select one):	() Good Practice () Meets SRF Program Requirements (X) Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	EPA recommends ADEQ follow up with discrepancy, ensure that PDEQ data is correctly entered
	Metric(s) and Quantitative Value	1b1 - Number of sites with informal enforcement actions 1b2 Number of sites inspected during reporting period
	State Response	The state will ensure PDEQ is correctly entered and EPA will ensure that PDEQ numbers are counted in ADEQ pulls
	Actions	see above

Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).

7-1	Finding	88% of the SNC's reviewed were reported timely to the national data base. Some of the SNC's had incorrect day zero dates; timeliness was determined using the inspection date as day zero.
	Is this finding a(n) (select one):	() Good Practice () Meets SRF Program Requirements (X) Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	Ensure that the correct day zero is entered.
	Metric(s) and Quantitative Value	3a - Timely entry of SNC data 2a - Accuracy of SNC determination date data 8b - Timely SNC determinations
	State Response	This recommendation is the result of a document provided by EPA explaining acceptable day zeros. The document was missing information and the state is following up with the files identified with incorrect day zeros.
	Actions	see above

Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	Finding	Eight of the 9 files reviewed with formal enforcement 33% of the actions were referred to the Attorney General. None of them were settled in accordance with policy time frames.
	Is this finding a(n) (select one):	() Good Practice () Meets SRF Program Requirements (X) Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	During FY07 the Arizona Attorney General's office was without a RCRA civil attorney resulting in a case backlog; the AAG has subsequently retained a full-time RCRA Attorney.
	Metric(s) and Quantitative Value	10a - Timely actions taken to address SNC
	State Response	see above
	Actions	Work on back log and ensure consent orders with cleanup are followed up on

Element 11: Penalty Calculation Method. Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy

11-1	Finding	ADEQ does not keep penalty calculations in the case files. ADEQ was not always receiving the penalty calculation from the AG's office once referred and did not have additional copies. ADEQ utilizes a penalty computation worksheet that lists economic benefit and gravity based calculations. However, the economic benefit was zero in the penalty
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	Is this finding a(n) (select one):	() Good Practice () Meets SRF Program Requirements (X) Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	ADEQ will keep copies of initial and final penalty calculations in case files under enforcement confidential cover
	Metric(s) and Quantitative Value	11 - Penalty calculations reviewed that consider and include where appropriate gravity and economic benefit 12a - Document the rational for the initial and final assessed penalty
	State Response	A new penalty calculation sheet was implemented as the result of the last SRF and new management. However, it did not effectively indicate economic benefit. The state did not want to keep copies of initial and final penalty calculations in case to avoid the release of CBI information. This was addressed immediately during the site review, all inspectors were informed of the need to maintain penalty calculations in case files.
	Actions	No further action required
Element 2: Data Accuracy. Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.)		
2-1	Finding	
	Is this finding a(n) (select one):	(X) Good Practice () Meets SRF Program Requirements () Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	ADEQ's inspection reports accurately documented the condition at the time of inspection of each facility. ADEQ maintains meticulous photo logs in their reports enabling the reader to easily asses the condition of the facility during the time of inspection. ADEQ enters their data directly into RCRAInfo. Inspector's fill out a detailed data entry form and submit it to their designated RCRAInfo data entry person, within two days after the inspection.
	Metric(s) and Quantitative Value	2c - verify that mandatory data are accurately reflected in the national data system
	State Response	
	Actions	
Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.		
4-1	Finding	
	Is this finding a(n) (select one):	(X) Good Practice () Meets SRF Program Requirements () Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	ADEQ has two planned commitments in its work plan, they are LQG inspections and TSD inspections. ADEQ committed to 33 LQG inspections and completed 38 in FY 2007, they committed to completing the TSD universe in 2 years and inspected their TSD universe in FY2007.

	Metric(s) and Quantitative Value	4a - Planned inspections completed 4b - planned commitments completed 5b - Annual Inspection coverage 5c - Five-year inspection coverage
	State Response	
	Actions	
Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.		
6-1	Finding	
	Is this finding a(n) (select one):	(X) Good Practice () Meets SRF Program Requirements () Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation (If Area of Concern describe why action not required, if Recommendation provide recommended action.)	ADEQ's compliance reports clearly documented the observations made by inspectors and provided clear evidence of violations. All of ADEQ's reports reviewed provided sufficient documentation to determine compliance at the facility. 63% of the files reviewed in less than 30 days and 88% in less than 45 days.
	Metric(s) and Quantitative Value	7a - Accurate Identification of violations 8a - Verify that facilities with violations were accurately determined to be SNC
	State Response	
	Actions	

V. ELEMENT 13 SUBMISSION

N/A

APPENDIX A: OFFICIAL DATA PULL

APPENDIX B: PDA TRANSMITTAL LETTER

Appendices B, C and D provide the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

This section, Appendix B, contains the letter transmitting the results of the Preliminary Data Analysis to the state. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

APPENDIX C: PRELIMINARY DATA ANALYSIS CHART

This section provides the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results.

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA Worksheet (Appendix E) contains every metric: positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis of further investigation that takes place during the file review and through dialogue with the state. Final Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Arizona Metric	Initial Findings
1A2S	Number of active LQGs in RCRAInfo	Data Quality	State			265	minor issue, state LQG universe significantly lower, as indicated by the BRS
1A5S	Number of LQGs per latest official biennial report	Data Quality	State			180	
1B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			68	ADEQ inspects significantly more facilities than indicated.
1B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			66	
2B0S	Number of sites in violation for greater than 240 days	Data Quality	State			15	This number seems high, this may be due to not having a RCRA attorney
5A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	89.0%	83.3%	ADEQ/EPA joint responsibility for TSDFs, combined total 100%
5B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.8%	22.2%	exceeds national goal
5C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	64.7%	71.1%	exceeded nat'l average however, look at LQG's not inspected, why, substituted for SQG's
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.9%	7.6%	When looking at past years it appears to be a bell curve with 2007 the lowest
8B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	81.7%	50.0%	total universe is 4, half not being made within the 150 days

8C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	54.0%	60.0%	
10A0S	Percent of enforcement actions/referrals taken within 360 days (1 FY)	Review Indicator	State	80%	24.2%	0.0%	ADEQ did not have an ALJ review 2008 response times
12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$585,000	if number low may want to consider SEPS
12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	85.5%	75.0%	Review file that penalty was not taken on formal action (ability to pay; SEP)
12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	83.3%	66.7%	Higher than national goal

APPENDIX D: PDA WORKSHEET (with State and EPA Comments)

APPENDIX E: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available to EPA and state users here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) and using a web-based file selection tool (available to EPA and state users here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). The protocol and tool are designed to provide consistency and transparency in the process. Based on the description of the file selection process in section A, states should be able to recreate the results in the table in section B.

A File Selection Process

The number of facilities in Arizona's RCRA universe is less than 300. The universe is based upon facilities with activities in the review year (e.g., inspection, violation, action). For a universe less than 300, the reviewer needed to review 15-30 files. Twenty four files were selected, and divided into three categories, no violation, secondary violation, and formal enforcement. However, two of the formal enforcement files were not in the file tracker. Additional files were selected after reviewing the PDA and speaking with the states. The additional files included 3 cases that were pending settlement. During the on-site an additional penalty calculations was reviewed and is not part of the file review list.

B. File Selection Table

	Program ID	f_city	f_zip	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe
1	AZ0000278820	KINGMAN	86401	no 0	no 0	no 0	no 0	yes 1	yes 500,000	LQG
2	AZ0000337360	PHOENIX	85043	yes 2	no 0	no 0	yes 3	no 0	no 0	TSF TSD(TSF)
3	AZ0000670000	MESA	85210	no 0	no 0	no 0	yes 1	yes 1	no 0	SQG
4	AZD043844083	KINGMAN	86401	yes 1	yes 2	no 0	yes 1	no 0	no 0	LQG
5	AZD049314370	PHOENIX	85007	no 0	no 0	no 0	no 0	yes 1	yes 40,000	SQG
6	AZD049318009	PHOENIX	85007	yes 1	yes 4	no 0	yes 5	yes 1	yes 45,000	TSF TSD(TSF)
7	AZD081705402	COOLIDGE	85228	1	2	1	9	0	0	TSD(TSF)
8	AZD980735500	TOLLESON	85353	yes 1	yes 3	no 0	yes 3	no 0	no 0	LDF TSD(LDF)
9	AZD981421449	TUCSON	85737	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
10	AZD981648892	PHOENIX	85051	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
11	AZD981648959	PHOENIX	85024	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
12	AZD981969504	CHANDLER	85226	yes 1	yes 2	no 0	yes 2	no 0	no 0	TSF TSD(TSF)
13	AZD981980824	TUCSON	85705	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
14	AZD982434383	TEMPE	85282	yes 1	yes 2	no 0	yes 4	no 0	no 0	LQG

15	AZD982486169	PHOENIX	85040	yes 1	yes 2	yes 1	yes 4	no 0	no 0	LQG
16	AZD983478983	TUCSON	85737	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
17	AZD983480690	PHOENIX	85031	no 0	no 0	no 0	yes 7	yes 1	no 0	LQG
18	AZR000032706	TEMPE	85281	yes 1	yes 1	no 0	yes 2	no 0	no 0	LQG
19	AZR000037226	PHX	85034	1	2	1	8	0	0	LQG
20	AZR000037275	PHX	85020	no 0	no 0	no 0	yes 4	yes 1	no 0	OTH
21	AZR000037382	YUMA	85356	yes 1	no 0	no 0	yes 3	no 0	no 0	TSF TSD(TSF)
22	AZR000040980	ORO VALLEY	85755	1	2	0	2	0	0	LQG
23	AZR000044818	PHOENIX	85017	yes 1	yes 3	no 0	yes 5	no 0	no 0	LQG
24	AZR000501635	FLAGSTAFF	86001	yes 1	no 0	no 0	yes 1	no 0	no 0	LQG
25	AZT000624445	CHANDLER	85226	yes 1	yes 3	no 0	yes 4	no 0	no 0	LQG
26	AZR000040725	PHX	85044	0	0	1	6	0	0	LQG
27	AZR000000885	PHOENIX	85019	0	0	1	6	0	0	SQG

Indicates Supplemental Files selected

APPENDIX F: FILE REVIEW ANALYSIS

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Name of State:		Review Period:	
RCRA Metric #	RCRA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	100%	27 or 27 of the files reviewed contained documentation to confirm that the MDRs were reported accurately.
Metric 4a	Planned inspections completed	100%	ADEQ committed to 33 LQG's and inspected 38 LQG's, exceeding their commitments. The PDA indicates greater than 70% based on the incorrect universe in RCRAInfo, revised PDA indicates 100%, as does the work plan and site review.
Metric 4b	Planned commitments completed	N/A	The state committed to entering data into RCRAInfo for evaluations, violations, and enforcement data elements. Data entry sheets are due to the data entry person within 48 hours of completion of inspection or site activity; data is entered upon receipt of form
Metric 6a	# of inspection reports reviewed.	27	27 inspection reports were found in inspection and enforcement files reviewed, 9 formal enforcement files, 7 informal enforcement files, 3 warning letters and 8 no violation files
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	100%	All of the inspection reports were complete, one file contained a more recent inspection report not related to the enforcement case, it was retrieved and reviewed. All reports contained sufficient documentation to determine the compliance of the facility
Metric 6c	Inspection reports completed within a determined time frame.	88%	24/27 of the inspection reports were completed in the agreed upon time frame. ADEQ has a more stringent established time frame of 30 days compared to the 45. All but three of the reports were completed in less than 30 days (from the date of inspection. (Trendwood, Hawkes, and Metco)
Metric 7a	% of accurate compliance determinations based on inspection reports.	100%	ADEQ should be commended on their inspection reports; they have detailed reports with accurate photo logs.
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	88%	14/16 SNC determinations were made were timely, facilities with an incorrect day were recalculated using the inspection date as day zero.

Metric 8h	% of violations in files reviewed that were accurately determined to be SNC.	100%	Nine SNC's were reviewed and all of them were accurately identified. Two of the inspections were the result of tips and complaints and one of them had an order to clean up instead of a penalty violation.
Metric 9a	# of enforcement responses reviewed.	16	Nine formal enforcement cases were reviewed and 7 informal
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Eight of the nine formal enforcement files reviewed had requirements for injunctive relief. Three of the facilities had settled and paid the penalty and five were in settlement. One of the facilities was ordered to clean up contamination and was not listed as a SNC because the contamination was from a previous operator.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	94%	Seven secondary violator files were reviewed all of them had return to compliance information; two had draft consent orders entered into RCRAInfo.
Metric 10e	% of enforcement responses reviewed that are taken in a timely manner.	63%	11/16 enforcement files reviewed were addressed in the appropriate time. If only formal enforcement is considered, 33% of the actions were referred to the Attorney General. None of them were settled in accordance with policy time frames. All files reviewed with secondary violations were sent notice in accordance with policy.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	100%	All files reviewed had appropriate responses to the violations. ADEQ should be commended on the inclusion of measures to clean up in their orders.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	38%	ADEQ does not keep penalty calculations in the case files. ADEQ was not always receiving the penalty calculation from the AG's office once referred. ADEQ utilizes a penalty computation worksheet that lists economic benefit and gravity based calculations. However, the economic benefit was zero in the penalty calculations reviewed. ADEQ explained that when the economic benefit is negligible a zero was entered. None of the penalty calculations reviewed had an economic benefit calculation (all were negligible according to ADEQ) so an additional penalty calculation was reviewed to ensure economic benefit is considered in penalty calculations.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	38%	The penalty calculations were not kept in the case files. In some cases the initial penalty could not be found.
Metric 12b	% of files that document collection of penalty.	38%	The 3 files reviewed with injunctive relief had evidence of the penalty being collected. If only considering files with settlement 100% of the penalties were collected, 5 cases were still in settlement

APPENDIX G: CORRESPONDENCE

EPA'S STATE REVIEW FRAMEWORK (SRF) REPORT

**STATE OF ARIZONA
DEPARTMENT OF ENVIRONMENTAL QUALITY
(ADEQ)**

**WATER QUALITY DIVISION COMPLIANCE SECTION (WQCS), AND NORTHERN
AND SOUTHERN REGIONAL OFFICES FIELD SERVICES UNITS**

Fiscal Year 2007

Final Report
September 30, 2009

Media Program Evaluated: Clean Water Act (CWA), National Pollutant Discharge Elimination System (NPDES) Compliance and Enforcement Activities
Review Period: Federal Fiscal Year 2007 (October 1, 2006 – September 30, 2007)
EPA Contact: Ken Greenberg, CWA Compliance Office (WTR-7) 415-972-3577
State Contact: Cynthia Campbell, Water Quality Division Compliance Section
602-771-2209

I. EXECUTIVE SUMMARY

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of State compliance and enforcement programs in a nationally consistent and efficient manner. Reviews evaluate 12 program elements covering: data management (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases: analyzing information from the national data systems; reviewing State files; and developing findings and recommendations. Considerable consultation is built into the process to ensure EPA and the State understand the causes of issues, and to agree on the actions needed to address problems. The reports generated by the reviews intend to capture information and agreements developed during the review process to facilitate program improvements. The reports intend to provide factual information, not to determine program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify issues that require a national response. Reports are not used to compare or rank State programs.

A. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Priorities

As with all programs administered by ADEQ, the priorities in compliance and enforcement with regard to the CWA is to promote appropriate, consistent and timely enforcement of Arizona’s environmental statutes and rules in a manner that is transparent to all who are affected, including the regulated community. The priorities, criteria and process of Compliance and Enforcement was established in ADEQ’s Compliance and Enforcement Policy. Priorities that are specific to the CWA are reflected in the Workplan between ADEQ and EPA.

Accomplishments

1. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other state law violations.
2. In 2008, ADEQ settled a CWA case filed against Kiewit Construction for violations of ADEQ's Construction General Permit and unauthorized point source discharges to tributaries of Christopher Creek. As a result of the civil suit, Kiewit paid a penalty of \$80,000.00.
3. In 2007, ADEQ filled a number of vacancies in the Compliance Assurance Unit within its Water Quality Division Compliance Section, to provide compliance oversight of the biosolids, concentrated animal feeding operations (CAFOs), and pretreatment programs. This increased program outreach, facility inspections, identification of violations, and issuance of enforcement actions. However, severe resource cutbacks in 2009 may result in staff cuts from this unit.
4. From 2006 through 2008, ADEQ steadily improved their storm water inspection coverage, nearly doubling the number of industrial inspections from 64 to 104 and tripling the number of construction inspections from 86 to 266.
5. In 2007, ADEQ commenced annual field inspector training, covering review of regulated facilities' analytical data and new regulatory requirements, among other subjects.
6. ADEQ established a web-based SMART NOI system for its storm water program, which provides facility operators with a method to submit Notices of Intent (NOIs) and access other e-forms online.
7. In July of 2009, ADEQ began uploading enforcement actions into EPA's Permit Compliance System (PCS) database.
8. For NPDES majors, ADEQ inspected 56 of its 64 facilities: 88 percent of the national goal - exceeding the national average of 65 percent, and exceeding its workplan commitment of 55.

Best Practices

ADEQ issued 97 percent of its inspections reports in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of the reports.

ADEQ developed at least six thorough inspection checklists for NPDES major and minor facilities, biosolids, multi-sector general permits (MSGP), common Storm Water Pollution Prevention Plan (SWPPP), and industrial storm water facilities.

B. SUMMARY OF RESULTS

This report presents the detailed findings from EPA's SRF review of ADEQ's CWA compliance and enforcement program, summarized below.

Data Management (Elements 1 – 3)

Finding 1-1: The data ADEQ routinely enters into EPA's national PCS database is complete, accurate and timely.

Finding 1-2: During the review period, ADEQ did not enter its enforcement actions into EPA's PCS database.

Recommendation 1-2: ADEQ should expand its data entry into PCS to include enforcement actions against general permittees and unpermitted dischargers. EPA recognizes the extra burden of creating facility records in PCS for enforcement actions against general permittees and unpermitted facilities.

Finding 1-3: ADEQ does not enter data into PCS for its biosolids inspections or inspections at general permittees, including storm water permittees and CAFOs. EPA policy does not require entry of general permittees inspection data into EPA's national database.

Finding 1-4: ADEQ is not coding permit discharge limits or entering Discharge Monitoring Report (DMR) data into PCS for minor permittees. Although it is not required under EPA's database management policy, many States enter minor facility limits and DMRs into EPA's national databases (PCS or ICIS-NPDES).

Recommendation 1-4: EPA will consult with ADEQ about options for tracking minor facility permit limits and DMRs in PCS. EPA recognizes tracking minor facility limits and DMRs is not required under EPA's data management policies.

Inspections and Compliance Evaluation (Elements 4 – 8):

Finding 4-1: ADEQ met 24 of the 32 commitments in its FY07 grant workplan. ADEQ fell short of its commitments to inspect minor facilities, industrial storm water permittees, CAFOs and biosolids land application sites.

Finding 5-1: ADEQ fell short of its grant workplan commitments for certain categories of inspections in FY07. However, ADEQ increased its inspection staff in FY08 and had excellent coverage in all categories of inspections, meeting or exceeding workplan commitments and EPA's national inspection goals and national averages for all States.

Finding 6-1: Most of ADEQ's inspection reports properly document observations and include accurate description of observations. ADEQ uses several well-designed inspection checklists to aid inspectors in writing thorough inspection reports.

Finding 6-2: ADEQ inspection reports are completed in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of reports.

Finding 7-1: ADEQ does a good job of identifying violations during inspections and tracking these violations in its AZURITE database. ADEQ identifies major facility effluent limit violations by tracking DMRs in AZURITE and PCS.

Finding 7-2: Although ADEQ uses its AZURITE database to track violations identified during inspections, it does not enter these violations into EPA's PCS database. This is a data

management issue related to use of EPA's national database and does not hinder ADEQ's ability to identify and track violations.

Recommendation 7-2: EPA will consult with ADEQ about options for uploading single-event violations to PCS.

Finding 8-1: During FY07, 14% of Arizona's major facilities were in Significant Non-Compliance (SNC), better than the national average SNC rate of 22.8%.

Finding 8-2: During FY07, ADEQ errors in its Quarterly Non-Compliance Report (QNCR) resulted in erroneously flagging several facilities as SNC. ADEQ has since improved its management of the QNCR and is now accurately identifying SNCs.

Finding 8-3: ADEQ has procedures for identifying and tracking State response to significant violations discovered through inspections, however this information is not entered into EPA's PCS database.

Enforcement (Elements 9 – 12):

Finding 9-1: During the FY07 review period, ADEQ issued 80 enforcement actions, including 50 Notices of Opportunity to Correct (NOC), 27 Notices of Violation (NOV) and 3 Compliance Orders. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other State law violations. In June 2008, ADEQ settled a case against Kiewit Construction in which the discharger paid an \$80,000 penalty for violations of Arizona's general permit for storm water discharges from construction sites.

Finding 9-2: In accordance with ADEQ's Compliance and Enforcement Policy, ADEQ's enforcement actions are generally informal actions which do not establish enforceable deadlines for discharger return to compliance.

Recommendation 9-2: EPA recommends ADEQ examine its enforcement policy and procedures to explore ways to increase the use of formal enforcement actions for Clean Water Act violations.

Finding 9-3: In several enforcement cases reviewed by EPA, violations continued for prolonged periods without ADEQ escalating its enforcement response.

Recommendation 9-2: ADEQ should escalate enforcement actions against recalcitrant violators or for violations that continue months after issuance of initial enforcement actions.

Finding 10-1: Arizona did not take formal enforcement action against 9 major facilities that were in SNC during FY07. Five of the 9 SNC facilities had SNC lasting for two quarters.

Recommendation 10-1: ADEQ should take timely formal enforcement action against facilities in SNC.

Finding 11-1: EPA reviewed one penalty action taken by ADEQ in 2007 and determined ADEQ assessed and collected an appropriate penalty.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

A. GENERAL PROGRAM OVERVIEW

Agency, Compliance/Enforcement Program Structure, and Roles and Responsibilities:

The State of Arizona and EPA, Region 9 entered into a Memorandum of Agreement (MOA) for the National Pollution Discharge Elimination System (NPDES), which became effective on December 5, 2002. The MOA establishes policies, responsibilities and procedures, and defines the manner in which the NPDES program will be administered by the Arizona's Department of Environmental Quality (ADEQ) and reviewed by EPA, Region 9. In addition, ADEQ and EPA entered into an annual grant agreement for the CWA Water Pollution Control Program (CWA §106) that sets forth, through a workplan, the NPDES-related goals and outputs ADEQ expects to achieve during the year. NPDES permits issued by ADEQ and its associated compliance program are referred to as the Arizona Pollutant Discharge Elimination System (AZPDES). The terms AZPDES and NPDES are used interchangeably in this report.

ADEQ's Water Quality Compliance Section (WQCS) is organized into four units: Compliance Assurance, Data, Enforcement, and Field Services, described below:

Compliance Assurance Unit: responsible for tracking compliance, conducting compliance inspections, and issuing Notices of Opportunity to Correct (NOCs) and Notices of Violation (NOVs) at CAFOs, biosolids facilities (generators and distributors), and pretreatment programs. This unit has one manager, one administrative secretary, and six staff – three of which are responsible for oversight of the biosolids, CAFO, and pretreatment programs for the State. Note: pretreatment programs are not implemented by ADEQ during the review period, therefore not reviewed by EPA.

Data Unit: responsible for managing CWA compliance and enforcement data in the Arizona Unified Repository for Informational Tracking of the Environment (AZURITE) system's Water Compliance, Enforcement, and Tracking (WCET) and Information on Compliance and Enforcement (ICE) sub-systems; data transfer from these sub-systems into EPA's PCS; and generating compliance status reports. This unit has one manager, one administrative secretary, and five staff, one of which is responsible for managing CWA compliance and enforcement data for the State.

Enforcement Unit: responsible for issuing and managing CWA "formal enforcement", defined as an Administrative Order (AO) (e.g., consent or unilateral order, or the filing of a civil action for injunctive relief, civil penalties, or other civil remedy). This unit has one manager (vacant), one administrative secretary (vacant), and eight staff (four vacancies, two of which are responsible for CWA escalated enforcement activities for the State).

Phoenix Field Services Unit (FSU): responsible for reviewing DMRs, tracking compliance, conducting compliance inspections, and issuing NOCs and NOVs to NPDES and storm water facilities. This unit has one manager and 11 staff, seven of which are responsible for the oversight of the AZPDES and storm water programs for Arizona's central region (Gila, La Paz, Maricopa, and Pinal Counties).

ADEQ also maintains regional offices (ROs) in Flagstaff (Northern) and Tucson (Southern), which are responsible for reviewing DMRs, tracking compliance, conducting compliance inspections, and issuing NOCs and NOV's to AZPDES and storm water facilities in their respective regions. The Northern RO oversees Mohave, Coconino, Yavapai, Navajo, and Apache Counties; the Southern RO oversees Cochise, Graham, Greenlee, Pima, Santa Cruz and Yuma Counties. The Northern Regional Office has a field service staff that includes one unit manager and 7 field inspectors, who determine compliance for AZPDES and stormwater facilities for Arizona's northern region. The Southern Regional Office has a compliance staff that includes one manager and 7 field inspectors, who determine compliance for AZPDES and stormwater facilities for Arizona's southern region. Matters that require escalation beyond the NOV are referred from the regional offices to the Phoenix office enforcement unit staff.

Source Universe: The number of facilities, by program, and the responsible ADEQ unit are summarized below:

Facility Type/ Program	Northern RO	Phoenix FSU	Southern RO	Data Unit	Compliance Assurance Unit	ADEQ AZPDES Total
NPDES Major	11	42	13	66		66
NPDES Minors	39	38	16	93		93
Storm water	33	71	103			207
CAFOs					28	28
Biosolids					18	18

The activities conducted by ADEQ are summarized below:

Program	Activity	Northern RO	Phoenix FSU	Southern RO	ADEQ AZPDES Total
October 1, 2006 – September 30, 2007					
NPDES	Inspections				
	Majors	10	37	12	59
	Minors	16	18	13	46
	Unpermitted	5	3	5	13
	SNC (effluent)	1	3	2	6
	Enforcement				
	NOCs		1	2	3
	NOVs	1	4		5
Storm water	AOs			1	1
	Inspections	33	71	103	207
	Enforcement				
	NOCs	1	28	17	46
NOVs	2	7	6	15	

Program	Activity	Northern RO	Phoenix FSU	Southern RO	ADEQ AZPDES Total
October 1, 2006 – September 30, 2007					
CAFOs/Livestock	Inspections	1	25	2	28
	Enforcement				
	NOVs		2		2
	AOs		2		2
Biosolids	Inspections	5	14		19
	Enforcement				
	NOCs	1			1
	NOVs	2	3		5

All CAFO and biosolids inspections are conducted by ADEQ’s Water Quality Compliance Assurance Unit. CAFO and biosolids inspection figures in the table above indicate the physical location of the inspected facilities rather than the organizational unit that conducted the inspection.

Coordination with Other Agencies: ADEQ is responsible for issuing NOV’s, NOCs, and negotiating Consent Orders or Consent Judgments when violations cannot be remedied by informal enforcement actions. Failure to enter into a Consent Order or Consent Judgment with ADEQ will typically result in the issuance of a unilateral order by ADEQ or the filing of a civil complaint by the Attorney General at the request of ADEQ.

There are no program responsibilities assumed by local agencies.

Data Reporting Systems/Architecture: ADEQ maintains the CWA program data in their AZURITE database. They report all required NPDES Water Enforcement Data Base (WENDB) data into the PCS in batch standard EPA format, with the exception of enforcement data. ADEQ meets the minimum data requirements of EPA’s October 31, 1985 PCS Policy Statement and its amendments through 2000. ADEQ electronically submits batch-formatted files of Permit Facility, Permit Tracking, Inspection, Pipe Schedule, Permit Limits, and DMR data to the PCS.

The ADEQ enforcement/violations and Quarterly Non-Compliance Report (QNCR) data are maintained in the PCS. Due to the complex software logic of automated compliance determinations and the QNCR, ADEQ did not duplicate this logic in their AZURITE system. Additionally, the ADEQ enforcement and compliance data are maintained in a separate State database, ICE. Data is batch loaded from ICE to PCS.

ADEQ uses EPA’s DMR format for dischargers’ self-monitoring reports. Permit limits and measurements values are reported in the State’s AZURITE system’s ORACLE database. Dischargers create PCS batch-formatted files from their ORACLE database to transfer and update their data in the PCS. This electronic transfer of data has been performed by ADEQ since 2004 in a timely and complete manner for NPDES major permits.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS

Priorities

As with all programs administered by ADEQ, the priorities in compliance and enforcement with regard to the CWA is to promote appropriate, consistent and timely enforcement of Arizona's environmental statutes and rules in a manner that is transparent to all who are affected, including the regulated community. The priorities, criteria and process of Compliance and Enforcement was established in ADEQ's Compliance and Enforcement Policy. Priorities that are specific to the CWA are reflected in the Workplan between ADEQ and EPA.

Accomplishments

1. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other State law violations.
2. In 2008, ADEQ settled a CWA case filed against Kiewit Construction for violations of ADEQ's Construction General Permit and unauthorized point source discharges to tributaries of Christopher Creek. As a result of the civil suit, Kiewit paid a penalty of \$80,000.00.
3. In 2007, ADEQ filled a number of vacancies in the Compliance Assurance Unit within its WQCS, to provide compliance oversight of biosolids, CAFOs, and pretreatment programs. This resulted in increased program outreach, facility inspections, identification of violations, and issuance of enforcement actions. However, severe resource cutbacks in 2009 may result in staff cuts from this Unit.
4. From 2006 through 2008, ADEQ steadily improved their storm water inspection coverage, nearly doubling the number of industrial inspections from 64 to 104 and tripling the number of construction inspections from 86 to 266.
5. In 2007, ADEQ commenced annual field inspector training, covering review of regulated facilities' analytical data and new regulatory requirements, among other subjects.
6. ADEQ has established a web-based SMART NOI system for its storm water program, which provides facility operators with a method to submit Notices of Intent (NOIs) online and access other e-forms.
7. In July 2009, ADEQ began uploading enforcement actions into EPA's PCS database.
8. For NPDES majors, ADEQ inspected 56 of its 64 facilities: 88 percent of the national goal – exceeding the national average of 65 percent, and exceeding its workplan commitment of 55.

Best Practices

ADEQ issued 97 percent of its inspections reports in a timely manner. State policy requires completion of reports within 30 days; ADEQ uses a tracking system to ensure timely completion of the reports.

ADEQ has developed at least six thorough inspection checklists for NPDES major and minor facilities, biosolids, MSGP common SWPPP, and industrial storm water facilities.

C. SUMMARY OF RESULTS

This report presents the detailed findings from EPA’s SRF review of ADEQ’s Clean Water Act (CWA) compliance and enforcement program, summarized in the table below:

Summary of EPA SRF Review of ADEQ’s 2007 Clean Water Act Compliance and Enforcement Activities		
Findings		Recommendations
Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered into EPA’s national database.		
1-1	Data that ADEQ routinely enters into EPA’s national database (PCS) is complete, accurate and timely.	None
1-2	During the review period, ADEQ did not enter its enforcement actions into the PCS.	ADEQ should expand its PCS enforcement data entry to include actions against general permittees and unpermitted dischargers. EPA recognizes the extra burden of creating facility records in PCS for enforcement actions at general permittees and unpermitted facilities.
1-3	ADEQ does not enter data into PCS for its biosolids inspections or inspections at general permittees, including storm water permittees and CAFOs. EPA policy does not require entry of general permittees inspection data to EPA’s national database.	None
1-4	ADEQ does not code permit discharge limits or enter DMR data into the PCS for minor permittees. Although it is not required under EPA’s database management policy, many States enter minor facility limits and DMRs into EPA’s national PCS database.	EPA will consult with ADEQ about options for tracking minor facility limits and DMRs in PCS. EPA recognizes that tracking minor facility limits and DMRs is not required under EPA’s data management policies.
Element 4: Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.		
4-1	ADEQ met 24 of the 32 commitments in its FY07 grant workplan. ADEQ fell short of its commitments for inspections at minor facilities, industrial storm water permittees, CAFOs and biosolids land application sites.	None
Element 5: Inspection Coverage. Degree to which State completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, State and		

Summary of EPA SRF Review of ADEQ's 2007 Clean Water Act Compliance and Enforcement Activities		
Findings		Recommendations
regional).		
5-1	ADEQ fell short of its grant workplan commitments for certain categories of inspections in FY07. However, ADEQ increased its inspection staff in FY08 and had excellent coverage in all categories of inspections, meeting or exceeding workplan commitments, EPA's national inspection goals and national averages for all States.	None
Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document and accurately describe observations, and are completed in a timely manner.		
6-1	ADEQ's properly documents and accurately describes observations in most of its inspection reports. ADEQ uses several well-designed inspection checklists to aid inspectors in writing thorough inspection reports.	None
6-2	ADEQ completes inspection reports in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of reports.	None
Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database, based on compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).		
7-1	ADEQ identifies violations during inspections and tracks these violations in its AZURITE database. ADEQ identifies major facility effluent limit violations by tracking DMRs in AZURITE and PCS.	None
7-2	ADEQ does not enter violations identified during inspections and reported in its AZURITE database into EPA's PCS database. This is a data management issue and does not hinder ADEQ's ability to identify and track violations.	EPA will consult with ADEQ about options for uploading single-event violations to PCS.
Element 8. Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national		

Summary of EPA SRF Review of ADEQ's 2007 Clean Water Act Compliance and Enforcement Activities		
Findings		Recommendations
system in a timely manner.		
8-1	During FY07, 14% of Arizona's major facilities were in SNC, better than the national average SNC rate of 22.8%.	None
8-2	During FY07, ADEQ errors in preparation of the QNCR resulted in erroneously flagging several facilities as SNC. ADEQ has since improved its management of the QNCR and is now accurately identifying SNCs.	None
8-3	ADEQ has procedures for identifying and tracking State response to significant violations discovered through inspections, however, they do not upload this information to EPA's PCS database.	None
Element 9. Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
9-1	During the FY07 review period, ADEQ issued 80 enforcement actions, including 50 Notices of Opportunity to Correct (NOC), 27 Notices of Violation (NOV) and 3 Compliance Orders. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other State law violations. In June 2008, ADEQ settled a case against Kiewit Construction in which the discharger paid an \$80,000 penalty for violations of Arizona's general permit for storm water discharges from construction sites.	None
9-2	In accordance with ADEQ's Compliance and Enforcement Policy, nearly all of ADEQ's enforcement actions are informal actions which do not establish enforceable deadlines for dischargers to return to compliance.	EPA recommends that ADEQ examine its enforcement policy and procedures to explore ways to increase the use of formal enforcement actions for Clean Water Act violations.
9-3	In several enforcement cases reviewed by EPA, violations continued for prolonged periods without ADEQ escalating its	ADEQ should escalate enforcement actions against recalcitrant violators or for violations that continue for months after

Summary of EPA SRF Review of ADEQ's 2007 Clean Water Act Compliance and Enforcement Activities		
Findings		Recommendations
	enforcement response.	issuance of initial enforcement actions.
Element 10. Timely and Appropriate Action. Degree to which a State takes timely and appropriate enforcement actions in accordance with policy relating to specific media.		
10-1	Arizona did not take formal enforcement action against any of the 9 major facilities that were in SNC during FY07. Five of the 9 SNC facilities had SNC lasting for two quarters.	ADEQ should take timely formal enforcement action against facilities in significant noncompliance.
Element 11. Penalty Calculation Method. Degree to which State documents in its files that the initial penalty calculation includes both gravity and economic benefit calculations, using the BEN model or other method that produces results consistent with national policy.		
11-1	EPA reviewed one penalty action taken by ADEQ in 2007 and finds that ADEQ assessed and collected an appropriate penalty.	None
Element 12. Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file, along with a demonstration in the file that the final penalty was collected.		
12-1	EPA reviewed one penalty action taken by ADEQ in 2007 and finds that ADEQ assessed and collected an appropriate penalty.	None

D. PROCESS FOR SRF REVIEW

Review Period: Federal Fiscal Year 2007 (October 1, 2006 through September 30, 2007)

Key Dates:

- September 10, 2008, EPA initiates, by letter, its SRF evaluation of ADEQ's inspection and enforcement activity for Federal Fiscal Year 2007
- September 9, 2008, EPA generates its data query for the Preliminary Data Analysis (PDA)
- September 10, 2008, EPA transmits the PDA spreadsheet to ADEQ for completion
- February 20, 2009, EPA formally transmits to ADEQ, by letter, the PDA spreadsheet and the list of files selected for review (previously transmitted on February 10, 2009)
- February 24-27, 2009, EPA conducts the on-site SRF review at the ADEQ office in Phoenix, Arizona

Communication with ADEQ: Throughout the SRF process, EPA communicated with ADEQ managers and staff via official letters, emails, and phone calls. During the on-site opening meeting with ADEQ managers and staff, EPA explained the SRF purpose, process, and schedule; the programs areas to be evaluated—workplan commitments, inspections, enforcement, and data;

and the methods of evaluation—file and data review and interviews. A closeout meeting was conducted with ADEQ managers and staff, including the Water Quality Division Director, to discuss the review findings.

State and EPA Contacts:

ADEQ: Cynthia Campbell, Manager, Water Quality Division Compliance Section (602) 771-2209

EPA: Ken Greenberg, Manager, CWA Compliance Office (415) 972-3477

Jenée Gavette, Environmental Protection Specialist, Water Division (415) 972-3439

III. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the 2004 SRF review of ADEQ's CWA compliance and enforcement programs, EPA and ADEQ identified actions to be taken to address issues identified. The information below provides status on progress toward completion.

Recommendation: ADEQ should complete planned storm water inspections per State/EPA agreement.

Status: Completed. ADEQ conducts planned storm water inspections as specified in the grant work plan.

Recommendation: ADEQ should complete thorough reports of its storm water inspections.

Status: Completed. ADEQ prepares comprehensive storm water inspection reports.

Recommendation: ADEQ should complete inspection reports within 30 days of inspection.

Status: Completed. ADEQ completes inspection reports in a timely manner.

Recommendation: ADEQ should issue formal enforcement when appropriate.

Status: Working. ADEQ issues numerous informal enforcement actions but few formal actions.

Recommendation: ADEQ should enter all minimum data requirements into PCS.

Status: Working. ADEQ enters required data entry elements into PCS, except for State enforcement actions. In July 2009, ADEQ began entering formal and informal enforcement actions for majors and minors.

IV. OVERALL FINDINGS AND RECOMMENDATIONS

Findings represent the issues identified by the Region. Findings are identified during the initial data or file review, and by subsequent conversations or additional information collected to determine the existence, severity and root causes of the issue. There are four types of findings, described below:

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well, and which the State is expected to maintain at a high level of performance. Additionally, the report may highlight specific innovative and noteworthy activities, processes, or policies that have potential to be replicated by other States. No further action is required by either EPA or the State.
Meets SRF Program Requirements	This indicates that no issues were identified under this Element.
<p>Areas for State* Attention</p> <p>*Or, EPA Region’s attention where program is directly implemented.</p>	This describes activities, processes, or policies that SRF data metrics and/or file reviews show are being implemented with minor deficiencies. The State must monitor these deficiencies to strengthen its performance, but they are not significant enough to require the region to identify and track State actions to correct. This can describe a situation where a State is implementing either EPA or State policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the State is expected to improve and maintain a high level of performance.
<p>Areas for State * Improvement – Recommendations Required</p> <p>*Or, EPA Region’s attention where program is directly implemented.</p>	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the State that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a State is implementing either EPA or State policy in a manner requiring EPA attention. For example, in areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not random occurrences. Recommendations are required for these problems to have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered in EPA's national database.

1-1	Finding	ADEQ routinely enters data into EPA's PCS that is complete, accurate and timely.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>During the FY07 review period, ADEQ electronically submitted the following batch-formatted files from its AZURITE data systems to PCS:</p> <ul style="list-style-type: none"> • NPDES major individual facilities: permit ID, permit tracking, inspections, pipe schedules, major facility permit limits and discharge monitoring report data • NPDES major general facilities: N/A • NPDES non-major (minor) individual facilities: Permit ID, inspections • NPDES non-major general facilities: CAFO permit was entered <p>ADEQ maintains a complete and accurate inventory of its NPDES permits across all size classifications, including majors, minors and general permits. ADEQ's permit limits and DMR entry rate for major individual permits exceed EPA's national goal and the national average. ADEQ accurately tracks inspections of individual major and minor permitted facilities in PCS. ADEQ did not track several of EPA's required data fields (WENDB) in PCS during the review period. These data omissions are addressed in Findings 1-2 and 1-3 below.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p><i>1-a. Accurate facility universe counts for all NPDES permit types:</i> ADEQ entered all NPDES permits except two general permits.</p> <p><i>1-b. Majors' individual permit limits and DMR entry complete:</i> ADEQ's permit limit entry rate is 97% compared to national goal of 95% and national average of 86%. DMR entry rate is 98.9% compared to the national goal of 95% and national average of 90%.</p> <p><i>Element 3. Timeliness of Data Entry:</i> ADEQ uploads data timely for NPDES major individual facilities (limits, DMRs, inspections).</p>
	State Response	
	Actions	None

Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered in EPA's national database.

1-2	Finding	During the review period, ADEQ was not entering any of its enforcement actions into the PCS.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>During FY07, ADEQ did not enter its formal, informal or penalty enforcement actions into the PCS. ADEQ tracked all of its enforcement actions in its AZURITE database, but did not develop an automated mechanism for uploading the enforcement action data to PCS. In the §106 grant workplan for State fiscal year 2009/2010, ADEQ agreed to enter its enforcement actions into the PCS. In July 2009, ADEQ began entering formal and informal enforcement actions against individual NPDES permittees (majors and minors) into the PCS. ADEQ is not yet entering certain classes of enforcement actions into the PCS, including formal and informal actions against general permit facilities (such as storm water permittees) or actions against unpermitted facilities.</p> <p>Recommended Action: ADEQ should expand its enforcement data entry into the PCS to include actions against general permittees and unpermitted dischargers. EPA recognizes the extra burden associated with creating facility records in the PCS for enforcement actions against general permittees and unpermitted facilities.</p>
	Metric(s) and Quantitative Value	<i>1-e & f. Informal and formal enforcement actions:</i> not entered <i>1-g. Penalty actions and penalties assessed:</i> not entered <i>2-a. Number of formal enforcement actions taken against major facilities with enforcement violation type EVTP:</i> not entered
	State Response	ADEQ recently agreed to enter enforcement actions against individual permitted facilities. However, unlike permitted facilities, general permitted facilities and unpermitted facilities do not have core data information in PCS, which is a prerequisite to entry of enforcement actions. Moreover, a project to implement this recommendation would require significantly more resources and time to populate PCS, which is itself being replaced by ICIS. ADEQ is currently devoting IT resources in preparation of a migration to ICIS, and an effort to populate PCS with general or unpermitted facility core data could divert limited resources from that project.
	Actions	<ol style="list-style-type: none"> 1. EPA and ADEQ will discuss options for uploading general permittee enforcement actions to PCS during FY2009/2010 grant work plan meetings. 2. Reach agreement on how to handle this issue by July 1, 2010 (or by conclusion of FY2010/2011 grant workplan, whichever is later).

Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered in EPA's national database.

1-3	Finding	ADEQ does not enter data in PCS for its biosolids inspections or inspections at general permittees including storm water permittees and Concentrated Animal Feeding Operations (CAFOs). EPA policy does not require entry of general permittees inspection data to EPA's national database.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>In FY07, ADEQ conducted 203 storm water inspections, 16 CAFO inspections and 18 biosolids inspections. ADEQ tracked these inspections in its AZURITE database and reported inspection numbers to EPA in its quarterly grant workplan reports. ADEQ, however, did not enter data in PCS for its biosolids, storm water or CAFO inspections. Neither EPA policy nor ADEQ's grant workplan obligate ADEQ to track general permittee inspections in PCS. EPA is not making a recommendation for this finding because ADEQ is not obligated to track general permittee inspections in PCS. Nevertheless, EPA will use grant workplan meetings with ADEQ to discuss options for tracking general permittee inspection data in PCS. ADEQ's inspection activities would be more transparent to the public if all of its NPDES inspections were recorded in EPA's national database and available to the public through Enforcement & Compliance History Online (ECHO).</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<i>5-c. Inspection coverage at general permittees:</i> no inspection data entered in PCS.
	State Response	
	Actions	None.

Elements 1, 2 and 3: Data completeness, accuracy and timeliness. Degree to which the Minimum Data Requirements are complete, accurate and timely entered in EPA's national database.

1-4	Finding	ADEQ is not coding permit discharge limits or entering Discharge Monitoring Report (DMR) data in PCS for minor permittees. Although it is not required under EPA's database management policy, many states enter minor facility limits and DMRs in EPA's national databases (PCS or ICIS-NPDES).
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>ADEQ is not coding permit discharge limits or entering Discharge Monitoring Report (DMR) data in PCS for individually permitted minor facilities. ADEQ's grant workplan does not commit ADEQ to tracking minor facility limits or DMRs in PCS. EPA's national database management policies require states to code limits and enter DMR data only for individually permitted major facilities. Nevertheless, according to EPA's 2007 Annual Noncompliance Report, 33 states enter minor facility limits and DMRs in EPA's national databases. ADEQ enters minor facility discharge limits and DMRs in its AZURITE database, but has not developed an automated system for transferring that data to PCS. Having the minor facility DMRs in PCS would provide EPA and the public (via the ECHO database) access to information about minor facility compliance in Arizona.</p> <p>Recommended Action: EPA will consult with ADEQ about options for tracking minor facility limits and DMRs in PCS. EPA recognizes tracking minor facility limits and DMRs is not required under EPA's data management policies.</p>
	Metric(s) and Quantitative Value	<i>1-c. Non-majors permit limits and DMR entry: not entered</i> <i>1-d. Quality of violations data at non-major facilities with individual permits: not entered</i>
	State Response	Although ADEQ does not include batch uploads of minor facility DMR data to PCS, it does upload information regarding enforcement actions. ADEQ also provides EPA with a quarterly non-compliance report which identifies minor facilities in significant non-compliance (SNC).
	Actions	<p>1 EPA/ADEQ will discuss options for tracking minor DMRs during FY2009/2010 grant work plan meetings.</p> <p>2. Reach agreement on how to handle this issue by July 1, 2010 (or by conclusion of FY2010/2011 grant workplan, whichever is later).</p>

Element 4:		
4-1	Finding	ADEQ meets 24 of the 32 commitments in its FY07 grant workplan. ADEQ fell short of its commitments for inspections at minor facilities, industrial storm water permittees, CAFOs and biosolids land application sites.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>ADEQ met 24 of the 32 commitments in its FY07 grant workplan. ADEQ fell short on commitments for inspections at minor facilities (57 inspections vs. commitment of 93), industrial storm water permittees (65 vs. 74), CAFOs (16 vs. 40) and biosolids land application sites (10 vs. 18). EPA and ADEQ discussed the workplan shortfalls and ADEQ has taken steps to address staffing shortages that contributed to the missed commitments. In FY08, ADEQ was fully staffed for storm water, biosolids and CAFO inspections and met all of its inspection commitments in the FY08 grant workplan. Because ADEQ met its FY08 workplan commitments, EPA is not offering a recommended follow-up action for this finding.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<i>4.a. Planned inspections completed:</i> see explanation above
	State Response	
	Actions	None

Element 5: Inspection Coverage. Degree to which State completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional)

5-1	Finding	ADEQ fell short of its grant workplan commitments for certain categories of inspections in FY07. However, ADEQ increased its inspection staff in FY08 and had excellent coverage in all categories of inspections, meeting or exceeding workplan commitments, EPA’s national inspection goals and national averages for all states.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Inspections at Majors – During the review period (October 1, 2006 through September 30, 2007), ADEQ conducted at least one inspection at 56 of its 64 active NPDES major facilities (88% coverage). ADEQ met its grant workplan commitment and exceeded the national average inspection rate of 65%. At the time, EPA’s national goal was for 100% annual inspection coverage at majors.</p> <p>In FY08, ADEQ inspected 63 majors (95% coverage), meeting its workplan commitment and again exceeding the national average inspection rate. In FY08, EPA issued a new Compliance Monitoring Strategy which established a goal of 50% annual inspection coverage for majors. ADEQ exceeded the national goal in FY08.</p> <p>Inspections at Minors – During the review period (October 1, 2006 through September 30, 2007), ADEQ conducted at least one inspection at 52 of its 93 NPDES minor facilities with individual permits (56% coverage) ADEQ fell short of its workplan commitment for 93 minor facility inspections, but exceeded the national goal of 20% inspection coverage.</p> <p>In FY08, ADEQ inspected 68 minors (73% coverage), meeting its workplan commitment and again exceeding the national goal and average inspection rate.</p> <p>Storm Water Inspections – In FY07, ADEQ inspected 138 construction sites and 65 industrial facilities subject to its general storm water permits. ADEQ well exceeded its workplan commitment for 76 construction sites inspections, but fell short of its commitment for 74 industrial facility inspections.</p> <p>In FY08, ADEQ had a marked increase in storm water inspections with 266 construction site inspections and 104 industrial facility inspections. In FY08, ADEQ exceeded its grant workplan commitments. Measured against the national goal of 10% coverage of SW general permittees, ADEQ inspected 7.5 % of their construction sites and 10.7 % of their industrial facilities.</p>

		<p>CAFO Inspections –</p> <p>In FY07, ADEQ inspected 16 Concentrated Animal Feeding Operations (CAFOs), falling short of its workplan commitment for 40 inspections. There was no national goal for CAFO inspections in FY08.</p> <p>In FY08, ADEQ inspected 40 CAFOs, meeting its workplan commitment and greatly exceeding EPA’s newly established commitment for 20% annual inspection coverage of CAFOs.</p> <p>In FY08, ADEQ was fully staffed for storm water, biosolids and CAFO inspections and met all of its inspection commitments in the FY08 grant workplan and exceeded the inspection goals in EPA’s Compliance Monitoring Strategy. Therefore, EPA is not offering a recommended follow-up action for this finding.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p><i>5-a. Inspections at NPDES majors with individual permits or general permits: 56 facilities inspected (88% coverage) compared to national goal of 100% and national average of 65 %.</i></p> <p><i>5-b-1. Inspections at NPDES non-majors with individual permits (i.e., minors): 57 facilities inspected (61% coverage) compared to national goal of 20% coverage.</i></p> <p><i>5-c. Other inspections performed for NPDES permittees that do not have effluent limits and DMRs: see explanation above</i></p>
	State Response	
	Actions	None

Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner and include accurate description of observations.

6-1	Finding	Most of ADEQ’s inspection reports properly document and accurately describe observations. ADEQ uses several well-designed inspection checklists to aid inspectors in writing thorough inspection reports.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>EPA evaluated ADEQ inspection reports from 35 inspections conducted at 22 different facilities in FY07. Most of the inspection reports properly and accurately documented observations, and included inspection date, NPDES or other ID number, type and purpose of inspection, facility description and area evaluated, inspection participants, regulated activities pertinent to the inspection, regulated areas evaluated, inspector observations and documentary support (photos and facility logs, etc.), and permit requirement or regulatory citation. Appendix B includes a list of reports reviewed by EPA.</p> <p>Even though most reports included these categories, not all information was consistently included in each report. Several reports omitted inspection time, others cited inspection type but not purpose, or vice-versa, or this information was instead included in the transmittal letter. Several reports did not include complete facility information, including address and phone number. Some reports described the area evaluated but did not adequately describe the facility, did not identify the areas subject to inspection and did not clarify if the regulated areas were inspected. A few reports did not cite the permit or other requirements, cited wrong requirements, and did not relate the observations back to the requirements. Some reports did not include the referenced photos, cited deficiencies but did not list or describe them, did not evaluate compliance with effluent limits or cite SNC, and cited analytic results without a comparative analysis. An inspection checklist was only used for about half of the inspections, and many reports were not signed or dated by the responsible agency representative, although the transmittal letter was signed and dated.</p> <p>EPA found the following ADEQ inspection checklists to be well-designed, thorough and useful:</p> <ul style="list-style-type: none"> • NPDES Inspection Checklist (multi-part and multi-page) • Biosolids Generator Inspection Report and On-site Management Plan Checklist • Biosolids Applicator Compliance Inspection Checklist • MSGP Common SWPPP Checklist • Industrial Storm water Investigation and Case Development Worksheet (Construction) • Industrial Storm water Investigation and Case Development Worksheet (Industrial)

		<p>Because ADEQ has established adequate procedures for its inspection reports, the deficiencies cited above can be attributed to oversights by individual inspectors and does not indicate a pattern of concern. Therefore, EPA is not offering a recommendation for this finding. Nevertheless, ADEQ inspectors should take care to ensure that all reports follow ADEQ procedures and thoroughly document inspection observations and findings.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p><i>6-a. Number of inspection reports reviewed: 35 reports from inspections at 22 facilities.</i></p> <p><i>6-b. % of reports reviewed that are complete: 25 of 35 reports reviewed are complete.</i></p> <p><i>6-c. % of reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: 25 of 35 reports reviewed provide sufficient documentation.</i></p>
	State Response	
	Actions	None

Element 6: Quality of Inspection or Compliance Evaluation Reports. Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner and include accurate description of observations.

6-2	Finding	ADEQ inspection reports are completed in a timely manner. State policy requires completion of reports within 30 days and ADEQ uses a tracking system to ensure timely completion of reports.
	Finding is:	(X) Good Practice () Meets SRF Program Requirements () Area for State Attention () Area for State Improvement – Recommendations Required
	Explanation	Of the 35 inspection reports reviewed by EPA, ADEQ issued 34 (97 percent) in a timely manner, pursuant to its Inspection Procedure Policy which requires that reports be sent to the facility by the 30 th working day following conclusion of the inspection. The average time for completion of the reports was 22 days. ADEQ uses a tracking system to ensure timely completion of reports. Recommended Action: None
	Metric(s) and Quantitative Value	6-d. Degree to which inspection reports are completed in a timely manner: Ninety-seven percent of the inspections reports were issued in a timely manner.
	State Response	
	Actions	None

Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).		
7-1	Finding	ADEQ does a good job of identifying violations during inspections and tracking these violations in its AZURITE database. ADEQ identifies major facility effluent limit violations by tracking DMRs in AZURITE and PCS.
	Finding is:	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>Potential violations identified during an inspection are flagged by ADEQ in its AZURITE database. Complaints alleging violations are entered into a Complaint Report Log, and if inspected, are flagged in ADEQ’s data system as “complaint-response”.</p> <p>When ADEQ inspectors enter their inspection reports into the AZURITE data system, an enforcement response may be warranted, “Cas-Rec” will be entered into the data system. The inspector and manager will then determine whether it violates a specific rule by comparing it to ADEQ’s lists of “major”, “minor” and other violations (Appendices L17 through L20, ADEQ Compliance and Enforcement Handbook). If ADEQ determines that the violation is “major” (equivalent to EPA’s SNC), an NOV is issued. If ADEQ determines that the violation is “minor”, an NOC is issued. NOVs and NOCs are both entered into ADEQ’s AZURITE database.</p> <p>Appendix P15 of ADEQ’s Compliance and Enforcement Handbook contain procedures for intake of complaints alleging violations of rules or statutes. The procedures provide for contact information and the nature of the complaint to be entered into a Complaint Report Log. If ADEQ conducts a follow-up inspection, it is entered into its data system and flagged as “Complaint-Response Inspection”.</p> <p>ADEQ enters all major facility DMRs in AZURITE and then uploads that data to EPA’s PCS database. These databases provide ADEQ with an accurate read of violations at major NPDES facilities. 24 percent of ADEQ’s 66 major facilities (16 of 66) had one or more effluent violations in FY07, lower than the national average violation rate of 56.8 percent.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	7-d. <i>Percentage of major facilities with DMR violations reported to the national database:</i> Sixteen of ADEQ’s 66 facilities had one or more effluent violations, representing 24 percent - lower than the national average of 56.8 percent

	State Response	
	Actions	None

Element 7: Identification of Alleged Violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility reported information).

7-2	Finding	Although ADEQ uses its AZURITE database to track violations identified during inspections, it does not enter these violations in EPA’s PCS database. This is a data management issue and does not hinder ADEQ’s ability to identify and track violations.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>EPA’s database management policy (Permit Compliance System Policy Statement, October 31, 1985) requires entry of violations data in EPA’s PCS database including “single-event violations” (SEVs) discovered during inspections, compliance schedule violations, and permit schedule violations. Although ADEQ tracks these violations in its AZURITE database, it does not upload these types of violations data to PCS. In July 2009, ADEQ began uploading enforcement actions in PCS. This will provide ADEQ with a mechanism for tracking enforcement action compliance schedules in PCS.</p> <p>Recommended Action: EPA will consult with ADEQ about options for uploading single-event violations to PCS.</p>
	Metric(s) and Quantitative Value	<p>7-a. <i>Number of single-event violations reported to national system:</i> not uploaded to PCS</p> <p>7-b. <i>Compliance schedule violations:</i> not uploaded to PCS</p> <p>7-c. <i>Permit schedule violations:</i> not uploaded to PCS</p>
	State Response	
	Actions	<p>1 EPA/ADEQ will discuss options for uploading SEVs and compliance schedule violations to PCS during FY2009/2010 grant work plan meetings.</p> <p>2. Reach agreement on how to handle this issue by July 1, 2010 (or by conclusion of FY2010/2011 grant workplan, which ever is later).</p>

Element 8: Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.

8-1	Finding	During FY07, 14% of Arizona's major facilities were in SNC, better than the national average SNC rate of 22.8%.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>ADEQ prepares Quarterly Noncompliance Reports (QNCRs) which identify major facility violations that meet EPA's criteria for significant noncompliance (SNC). In FY07, ADEQ identified 9 major facilities as SNC for effluent limit violations or failure to submit required Discharge Monitoring Reports (DMRs). ADEQ did not take formal enforcement actions against any of the SNC facilities. Although Arizona has a relatively low SNC rate, ADEQ could achieve a lower SNC rate by taking timely enforcement action against SNC facilities (see Element 10 below).</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p>8-a-1. Number of active majors in SNC during reporting year: 9 of 66 majors in SNC</p> <p>8-a-2. Percent of active majors in SNC during the reporting year: 14 percent, lower than the national average of 22.8 percent</p>
	State Response	
	Actions	None

Element 8: Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.

8-2	Finding	During FY07, ADEQ made errors in its QNCR that resulted in erroneously flagging several facilities as SNC. ADEQ has since improved its management of the QNCR and is now accurately identifying major facility SNCs.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>FY07 QNCRs prepared by ADEQ incorrectly listed 3 facilities as SNC. Two of the mistakes were attributed to dischargers (Globe and Pima County Marana) not using proper codes in their DMRs. Superstition CFD #1 was incorrectly flagged as SNC because ADEQ failed to properly code a modified permit limit in PCS. ADEQ has since corrected these errors and entered the correct data in PCS. Despite these corrections, EPA’s OTIS and ECHO databases still show these facilities as SNC. This appears to be a shortcoming in EPA’s data system.</p> <p>EPA identified one additional facility (Buckeye, AZ0025313) that was in SNC during the first quarter of FY07 for failure to timely submit its influent DMR, but this is not listed on EPA’s OTIS report.</p> <p>Finally, EPA Region 9 identified one other mistake attributable to EPA’s OTIS data system. The OTIS SRF data report incorrectly includes Mesa (AZ0024627) in its count of Arizona SNC facilities. The Mesa discharge is on tribal land and therefore should not be included in EPA’s count of Arizona SNCs.</p> <p>Since FY07, ADEQ has improved its management of the QNCR and is now producing accurate QNCRs. ADEQ database managers have learned to identify common discharger reporting errors and ask the dischargers to correct their DMRs, thus avoiding erroneous SNC listings. ADEQ has also identified and fixed incorrectly coded permit limits which can also result in erroneous SNC listings.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p>8-a-1. Number of active majors in SNC during reporting year: 9 of 66 majors in SNC</p> <p>8-a-2. Percent of active majors in SNC during the reporting year: 14 percent, lower than the national average of 22.8 percent</p>
	State Response	
	Actions	None

Element 8: Identification of SNC and HPV. Degree to which State accurately identified significant noncompliance/high priority violations and enters information into the national system in a timely manner.

8-3	Finding	ADEQ has procedures for identifying and tracking State response to significant violations discovered through inspections, however, they do not upload this information to EPA's PCS database.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>EPA's database management policy (Permit Compliance System Policy Statement, October 31, 1985) requires entry of violations data in EPA's PCS database including "single-event violations" (SEVs) discovered during inspections. Although ADEQ tracks these violations in its AZURITE database, it does not upload these types of violations data to PCS. ADEQ uses its AZURITE data system to track single-event violations that warrant enforcement follow-up. In 2007, EPA established procedures for flagging certain wet weather SEVs as significant noncompliance (SNC) in EPA's national database. EPA is currently piloting this SNC policy for violations discovered during storm water, sewage collection system and CAFO inspections. Because EPA has not yet asked the states to implement the wet weather SNC policy and because ADEQ has its own system for flagging significant violations, we are not offering a recommendation related to this finding.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<p>8-b. % of single event violations that are accurately identified as SNC – Arizona does not upload SEVs to PCS</p> <p>8-c. % of single event violations identified as SNC that are reported timely – Arizona does not upload SEVs to PCS</p>
	State Response	
	Actions	None

Element 9: Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
9-1	Finding	<p>During the FY07 review period, ADEQ issued 80 enforcement actions, including 50 Notices of Opportunity to Correct (NOC), 27 Notices of Violation (NOV) and 3 Compliance Orders. In November 2007, ADEQ reached a settlement in its litigation against La Osa/Johnson International in which the discharger paid a \$12.5 million penalty for storm water and other state law violations. In June 2008, ADEQ settled a case against Kiewit Construction in which the discharger paid an \$80,000 penalty for violating Arizona's general permit for storm water discharges from construction sites.</p>
	Finding is:	<p>() Good Practice (X) Meets SRF Program Requirements () Area for State Attention () Area for State Improvement – Recommendations Required</p>
	Explanation	<p>ADEQ's NOCs and NOV's are informal enforcement actions which do not include enforceable deadlines for the discharger to return to compliance. The NOC, which is ADEQ's lowest level of informal enforcement response, allows the discharger a minimum of 90 days to correct its deficiencies without enforcement by ADEQ. NOV's cite alleged violations and give the discharger time (typically 30 days) to dispute the violations or demonstrate that they have returned to compliance. ADEQ's Compliance Orders are formal enforcement actions which include enforceable deadlines for return to compliance. During FY07, ADEQ issued 2 Compliance Orders on Consent and 1 unilateral Compliance Order. ADEQ lacks administrative penalty authority for Clean Water Act cases, but can bring penalty actions in Superior Court.</p> <p>This finding is a recitation of enforcement outputs and therefore, does not warrant a recommended action.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	
	State Response	
	Actions	None

Element 9: Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
9-2	Finding	In accordance with ADEQ's Compliance and Enforcement Policy, nearly all of ADEQ's enforcement actions are informal actions which do not establish enforceable deadlines for discharger return to compliance.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>ADEQ's Compliance and Enforcement Policy and associated handbook establish a preference for initiating enforcement responses with informal actions, either NOC (followed by NOV if needed) or NOV. The policy also calls for exhausting the informal actions before escalating a case to a formal compliance order or civil penalty. The policy does, however, allow for a case to go straight to a formal enforcement action for certain serious violations. ADEQ's enforcement policy also states a preference for administrative compliance orders on consent rather than unilateral compliance orders issued by ADEQ. ADEQ's FY07 enforcement actions seem consistent with its policy preference for informal enforcement. In FY07, ADEQ issued 77 informal actions and 3 formal enforcement actions for Clean Water Act violations.</p> <p>Recommended Action: EPA recommends that ADEQ examine its enforcement policy and procedures to explore ways to increase the use of formal enforcement actions for Clean Water Act violations.</p>
	Metric(s) and Quantitative Value	
	State Response	While ADEQ's informal enforcement actions do not establish deadlines that are enforceable by a court or other tribunal, the informal enforcement actions do establish firm date certain deadlines for specific compliance actions to occur. ADEQ's Compliance and Enforcement Policy also includes detailed procedures for ADEQ staff to follow in the event a compliance deadline is not met. This informal enforcement procedure has been very effective in returning most violations to compliance. It also results in a more effective use of limited resources that are not consumed in lengthy administrative appeals and subsequent delays in completing compliance activities that frequently occur when ADEQ issues unilateral administrative orders. To the extent an administrative order is needed, ADEQ does prefer orders on consent, but it is ADEQ's understanding that this type of administrative

		order is included in EPA's definition of "formal enforcement action."
	Actions	Meet with ADEQ no later than 9/30/10 to discuss ADEQ options for working with its enforcement policy and procedures to promote timely escalation of enforcement actions.

Element 9: Enforcement Actions Promote Return to Compliance. Degree to which State enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.

9-3	Finding	In several enforcement cases reviewed by EPA, violations continued for prolonged periods without ADEQ escalating its enforcement response.
■	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
■	Explanation	<p>EPA reviewed 14 of ADEQ’s facility files that contained a total of 20 enforcement actions. EPA examined cases that were initiated any time after the start of the SRF review period (October 2006) through the time of our on-site file review in February 2009. For each of the facilities, EPA evaluated the timeliness of the enforcement actions and the effectiveness of the action at returning the facility to compliance.</p> <p>EPA found that in all cases, ADEQ’s initial enforcement action was timely and usually issued within 3 months of the facility inspection. For 6 of the facilities, ADEQ’s informal enforcement action (NOC or NOV) yielded a quick return to compliance, usually within 3 months as verified by facility reports or ADEQ follow-up inspection.</p> <p>For 4 of the facilities reviewed, violations continued for months or years after the initial informal enforcement action without escalation of the enforcement response. One other case appeared to warrant a penalty action, but was not escalated beyond the initial NOV.</p> <p>ADEQ addressed two of the violating facilities with compliance orders on consent. These appear to be appropriate enforcement responses for these cases, however, the consent orders were somewhat delayed (1 year and 2 years) because of the protracted time needed to develop an order on consent.</p> <p>Recommended Action: ADEQ should escalate enforcement actions against recalcitrant violators or for violations that continue for months after issuance of initial enforcement actions.</p>
■	Metric(s) and Quantitative Value	<p><i>9-a. number of enforcement files reviewed: 14</i></p> <p><i>9-b & c. % of enforcement responses that have returned or will return a source to compliance: 6 cases had protracted noncompliance after initial enforcement response. 1 case warranted penalty.</i></p>

	State Response	
	Actions	<ol style="list-style-type: none"> 1. EPA and ADEQ will hold monthly calls in which facility violations are discussed to determine the appropriate enforcement response. 2. As needed, EPA is willing to take formal enforcement actions, especially against SNC facilities. 3. Meet with ADEQ no later than 9/30/10 to discuss ADEQ options for working with its enforcement policy and procedures to promote timely escalation of enforcement actions.

Element 10: Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

10-1	Finding	Arizona did not take formal enforcement action against any of the 9 major facilities that were in significant noncompliance (SNC) during FY07. Five of the 9 SNC facilities had SNC lasting for two quarters.
	Finding is:	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>ADEQ prepares Quarterly Noncompliance Reports (QNCRs) which identify major facility violations that meet EPA’s criteria for significant noncompliance (SNC). During FY07, ADEQ identified 9 major facilities as SNC for effluent limit violations (EFF) or failure to submit required Discharge Monitoring Reports (DMRs). Going back to FY06, five of the 9 SNC facilities had SNC for two quarters. The SNC facilities are listed in the table below. ADEQ did not take formal enforcement actions against any of the SNC facilities.</p> <p>EPA policy calls for timely formal enforcement actions against SNC facilities. Formal enforcement is an action with an enforceable schedule requiring the facility to return to compliance. Timely enforcement is an action issued within 5 months of the end of the quarter when the facility first becomes SNC. The timeliness standard is set so enforcement is taken before the facility appears as SNC for a second consecutive quarter.</p> <p>Recommended Action: ADEQ should take timely formal enforcement action against facilities in significant noncompliance.</p>
	Metric(s) and Quantitative Value	<i>10-a. Major facilities without timely action: 9</i> <i>10-b. % of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner: 0%</i> <i>10-c. % of enforcement responses reviewed that address SNC that are appropriate to the violations: 0%</i>
	State Response	ADEQ believes that it takes appropriate and timely enforcement against SNC facilities. It is notable that of the 9 facilities identified below, at least 3 facilities entered into new or amended AZPDES permits which resolved the violations; an additional 5 were resolved without formal enforcement and the remaining facility has a pending variance of its AZPDES permit which will address the SNC.
	Actions	<ol style="list-style-type: none"> 1. EPA and ADEQ will hold monthly calls in which QNCR SNC facilities are discussed to determine the appropriate enforcement response. 2. As needed, EPA will take formal enforcement against SNC facilities.

Element 10: Arizona SNC Facilities, FY06 and FY07		
Facility	SNC violation	Quarters in SNC
AZ Fish & Game, AZ0021245	DMR	4 th Q FY06 and 1 st Q FY07
Bisbee, AZ0025275	DMR	1 st Q FY07
Flagstaff Wildcat Hill, AZ0020427	EFF	4 th Q FY06 and 1 st Q FY07
Mesa Northwest WRP, AZ0024031	DMR	4 th Q FY06 and 1 st Q FY07
Palo Verde, AZ0025071	EFF	4 th Q FY07
Pima County, Ina Road, AZ0020001	EFF	1 st Q FY07
Prescott Valley, AZ0025381	DMR	4 th Q FY06 and 1 st Q FY07
Show Low, AZ0023841	DMR	1 st Q FY07
Buckeye WWTP, AZ0025313	DMR	1 st and 2 nd Q FY07

Element 11: Penalty Calculation Method. Degree to which State documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.		
11-1	Finding	EPA reviewed one penalty action taken by ADEQ in 2007 and found that ADEQ assessed and collected an appropriate penalty.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>In 2006, ADEQ (lead) and other state agencies filed a complaint in Superior Court against La Osa/Johnson International for its 19,000-acre development that discharged unpermitted storm water to the Santa Cruz River and its tributaries. The complaint cited violations of various State regulations including violations of ADEQ’s general permit for storm water discharges from construction sites. Pretrial discovery and motions lasted through 2007, and in November of 2007, a \$12.5 million cash penalty settlement was reached for the State violations. The penalty appears to be consistent with State policies for penalties in Clean Water Act enforcement cases.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<i>Element 11-a. % of penalty calculations that consider and include where appropriate gravity and economic benefit: 100%</i>
	State Response	
	Actions	None

Element 12: Final Penalty Assessment and Collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.

12-1	Finding	EPA reviewed one penalty action taken by ADEQ in 2007 and finds that ADEQ assessed and collected an appropriate penalty.
	Finding is:	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Explanation	<p>In 2006, ADEQ (lead) and other State agencies filed a complaint in Superior Court against La Osa/Johnson International for its 19,000-acre development that discharged unpermitted storm water to the Santa Cruz River and its tributaries. The complaint cited violations of various State regulations including violations of ADEQ’s general permit for storm water discharges from construction sites. Pretrial discovery and motions lasted through 2007, and in November of 2007, a \$12.5 million cash penalty settlement was reached for the State violations. The penalty appears to be consistent with State policies for penalties in Clean Water Act enforcement cases. ADEQ collected the assessed penalty.</p> <p>Recommended Action: None</p>
	Metric(s) and Quantitative Value	<i>12-b. % of enforcement actions with penalties that document collection of penalty: 100%</i>
	State Response	
	Actions	None

Appendix A

PRELIMINARY DATA ANALYSIS CHART

This section provides the results of the Preliminary Data Analysis (PDA). The PDA forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process, because it allows the reviewers to be prepared and knowledgeable about potential problem areas before initiating the on-site portion of the review. In addition, it gives the region focus during the file reviews and/or basis for requesting supplemental files based on potential concerns raised by the data metrics results. The full PDA is available in Appendix A of this report.

The PDA reviews each data metric and evaluates State performance against the national goals or average, if appropriate. The PDA Chart, Appendix A of the SRF report only includes metrics where potential concerns or potential areas of exemplary performance are identified. The full PDA contains every metric possible, neutral or negative. Initial findings indicate the observed results. Initial findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the State have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in table below.

Note: There is a one-page version of the following Appendix included as a separate PDF file in the tracker, and included in the hard-copy version sent to ADEQ.

APPENDIX A

ADEQ PRELIMINARY DATA ANALYSIS SPREADSHEET (PDA)

10/9/2008
Metric

Metric	Metric Description	Metric Type	Agency	National Goal	Avg	ADEQ Metric	Universe Count	Not Counted	State Discrepancy (Y/N)	St Correction	State Data Source	ADEQ Discrepancy Explanation	EPA Initial Findings
W01A 1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			68	NA NA	NA	Y	66	State Data Source	EPA identified facilities that are not regulated by ADEQ and facilities that were not permitted majors during FY07	Count inaccurate in OTIS
W01A 2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA NA	NA	N				
W01A 3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			108	NA NA	NA	Y	93	State Data Source	It appears OTIS includes federal facilities not regulated by ADEQ and facilities that were not permitted minors in FY07.	Count inaccurate in OTIS

W01A 4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined	1	NA	NA	NA	NA	Y	3	State Data Source	The single permit showing in OTIS appears to be Arizona's General permit for CAFOs. Arizona also had a Construction General Permit (AZG2003-001) and a De Minimus Permit	Count inaccurate in OTIS	
W01B 1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	43.4%	80.9%	55	68	13		This metric now N/A			
C01B2 C	Major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Goal	Combined	>=; 95%	89.6%	98.0%	452	461	9	Y	98.90%	State Data Source	Only 5 facilities (not 9) were identified in OTIS as not counted. Three of these facilities were federal facilities not regulated by ADEQ. The universe of facilities should be 457 due to the inclusion of three federal facilities and because one facility, AZ0025691, was permitted on 9/11/07, which is outside of FY07. Only AZ0025542 (Painted Mesa) was the one facility for which DMRs were not entered.	Universe inaccurate in OTIS; DMR entry rate above national average

C01B3 C	Major individual permits: percent with permit limits and DMR data (1 FY)	Goal	Combined	>=; 95%	85.9%	80.3%	57	71	14	Y	97%	State Data Source	The universe of major facilities is 66, not 71. Of the 14 listed as not counted, 2 are permits that were not issued until after FY07 (AZ0025445 (issued 10/24/07) and AZ0025500 (issued 9/19/07)). An additional 8 permits had DMRs that were built incorrectly and have since been revised (AZ0022268, AZ0023426, AZ0023434, AZ0023442, AZ0024546, AZ0024881, AZ0024911, and AZ0023558). An additional 2 permits had DMRs that were received on time, but not entered (AZ0023540 and AZ0024244). Only 2 remain that were in violation for FY07 for exceedances/violations.	Universe count incorrect in OTIS; DMR entry rate consistent with national avg
W01B 4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined		5.9%		1	17	16	Y		State Data Source	At least one facility listed is not regulated by ADEQ.	Universe incorrect in OTIS

W01C 1C	Non-major individual permits: correctly coded limits (Current)	Info Only	Combined	0.0%	0	108	108	Y	100%	State Data Source	ADEQ does not upload this permit information to PCS, but provides a quarterly report to EPA regarding permit compliance for non-majors. Permits are correctly coded into ADEQ's database.	Info not uploaded by ADEQ; cannot do preliminary evaluation
C01C2 C	Non-major individual permits: DMR entry rate based on DMRs expected (1 Qtr)	Info Only	Combined	0.0%	0	106	106	Y	100%	State Data Source	ADEQ does not upload this permit information to PCS, but provides a quarterly report to EPA regarding permit compliance. Permits are correctly coded into ADEQ's database. In addition, ADEQ does not agree with the universe, which EPA lists as 106, but ADEQ believes is 93.	Info not uploaded by ADEQ; cannot do preliminary evaluation
C01C3 C	Non-major individual permits: percent with permit limits and DMR data (1 FY)	Info Only	Combined	0.0%	0	119	119	Y	100%	State Data Source	ADEQ does not upload this permit information to PCS, but provides a quarterly report to EPA regarding permit compliance. ADEQ believes all permits are correctly coded in its database. In addition, ADEQ does not agree with the universe, which EPA lists as 106, but ADEQ believes is 93	Info not uploaded by ADEQ; cannot do preliminary evaluation

W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Info Only	Combined	0.0%	0	108	108	Y	State Data Source	ADEQ does not upload this permit information to PCS, but provides a quarterly report to EPA regarding permit compliance.	Info not uploaded by ADEQ; cannot do preliminary evaluation
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 FY)	Info Only	Combined	100.0%	2	2	0				
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Info Only	Combined	5	NA	NA	NA	Y	0 State Data Source	Two of the five facilities are not regulated by ADEQ. The remaining facilities submitted DMRs to ADEQ, so it is unclear why they are identified as non-receipt.	Universe count incorrect in OTIS
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	Y	State Data Source	ADEQ does not upload enforcement information to PCS, but recorded 4 informal actions at major facilities in its database.	Info not uploaded by ADEQ; cannot do preliminary evaluation
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	Y	State Data Source	ADEQ does not upload enforcement information to PCS, but recorded 4 informal actions at major facilities in its database (City of Benson, ASARCO Hayden, Pinetop-Lakeside and Superstition).	Info not uploaded by ADEQ; cannot do preliminary evaluation

W01E3 S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	Y	State Data Source	ADEQ does not upload enforcement information to PCS, but recorded 4 informal enforcement actions at non-major facilities.	Info not uploaded by ADEQ
W01E4 S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	Y	State Data Source	ADEQ does not upload enforcement information to PCS, but recorded 4 informal enforcement actions at non-major facilities (Florence, Canyon Lake Marina, Gamble Quail and Lake Roosevelt).	Info not uploaded by ADEQ
W01F1 S	Formal actions: number of major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	N			Info not uploaded by ADEQ
W01F2 S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	N			Info not uploaded by ADEQ
W01F3 S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	N		ADEQ does not upload enforcement information to PCS, but recorded 1 formal enforcement action at a non-major facility.	Info not uploaded by ADEQ

W01F4 S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State	0	NA	NA	NA	Y	State Data Source	ADEQ does not upload enforcement information to PCS, but recorded 1 formal enforcement action at a non-major facility (Van deer Warden Dairy).	Info not uploaded by ADEQ
W01G 1S	Penalties: total number of penalties (1 FY)	Data Quality	State	0	NA	NA	NA	N			ADEQ did not take penalty actions
W01G 2S	Penalties: total penalties (1 FY)	Data Quality	State	\$0	NA	NA	NA	N			ADEQ did not take penalty actions
W01G 3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State	\$0	NA	NA	NA	N			ADEQ did not take penalty actions
W01G 4S	Penalties: total collected pursuant to administrative actions (3 FY)	Info Only	State	\$0	NA	NA	NA	N			ADEQ did not take penalty actions
W01G 5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State	\$0	NA	NA	NA	N			ADEQ did not take penalty actions
W02A 0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%	0	0	0	Y	State Data Source	ADEQ does not upload enforcement information to PCS.	ADEQ does not upload this data

W05A 0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	64.6%	77.9%	53	68	15	Y	89%	State Data Source	ADEQ calculates the universe of major permittees during FY07 at 66. Some facilities were not permitted as majors in FY07, and 2 facilities were not constructed (Buckeye facilities). Still others facilities were inspected during Arizona's fiscal year 2007, in accordance with ADEQ's workplan with EPA. ADEQ's inspection rate of major facilities during the workplan FY07 was 92%, which included 2 facilities that were not constructed. The State correction identifies the percentage of facilities inspected during EPA's FY07. The number not inspected (7) includes 2 facilities that were not constructed.	Universe count incorrect in OTIS; could not make initial finding
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W05B 1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State	38.0%	41	108	67	Y	48%	State Data Source	The universe was 93, not 108. In addition, three facilities (Canyon Lake, City of Yuma and City of Somerton) had two AZPDES permits effective during this period (2 were inspected during this period). Other facilities were inspected during Arizona's fiscal year 2007, in accordance with ADEQ's workplan with EPA. The total number of minor permitted facilities that were not inspected during this period was 48, not 67.	Universe count incorrect in OTIS; could not make initial finding
W05B 2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State	0.0%	0	1	1	Y		State Data Source	ADEQ does not upload information related to non-major general permits to PCS. ADEQ conducted 146 inspections during this time period, which included inspections for biosolids application, construction storm water and MSGP. ADEQ does not track the percentage of facilities covered under general permits that were inspected.	ADEQ does not upload this data; could not make initial finding

W05C 0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Info Only	State	0.0%	0	40	40	Y	State Data Source	ADEQ conducted 28 CAFO inspections during this period, which does not completely overlap ADEQ's fiscal year and EPA Workplan. That represents 70% of the Workplan goal.	ADEQ does not upload this data; could not make initial finding
W07A 1C	Single-event violations at majors (1 FY)	Review Indicator	Combined	0	NA	NA	NA	N		ADEQ does not track this information in a database, nor upload it to PCS.	ADEQ does not upload this data; could not make initial finding
W07A 2C	Single-event violations at non- majors (1 FY)	Info Only	Combined	0	NA	NA	NA			ADEQ does not track this information in a database, nor upload it to PCS.	ADEQ does not upload this data; could not make initial finding
W07B 0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined	32.0%	0/0	0	0	Y	State Data Source	There is no data value identified so it is unclear how a percentage was derived. ADEQ does not enter compliance schedule information into PCS.	ADEQ does not upload this data; could not make initial finding
W07C 0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined	31.9%	0/0	0	0			There is no data value identified so it is unclear how a percentage was derived. ADEQ does not enter permit schedule information into PCS.	ADEQ does not upload this data; could not make initial finding

W07D 0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined	56.8%	32.4%	22	68	46	Y	24%	State Data Source	The universe of major facilities is 66, not 71. ADEQ reviewed the facilities listed as having DMR violations with its own database. Six of the facilities were incorrectly counted violations per parameter (the same parameter was counted multiple times during a single timeframe).	Universe inaccurate in OTIS; could not make initial evaluation
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W08A 1C	Major facilities in SNC (1 FY)	Review Indicator	Combined	15 NA NA	NA	Y	8	State Data Source	The list in OTIS (which numbered 12), including a permit not regulated by ADEQ (Mesa tribal permit AZ0024627). In addition, it appears the database was incorrect or otherwise corrected because the actual number of facilities meeting SNC criteria (based on a current review of PCS, the State database and DMRs) is 8. Globe (AZ0020249), Superstition (AZ0023931) and Pima County Marana (AZ0024520) should not have been counted on the list. The remaining 8 facilities appear to be correct. That gives you 8 out of 66 for a percentage of 12% in SNC for FY07.	Universe inaccurate in OTIS; could not make initial evaluation
W08A 2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined	22.8% 19.7% 15 76	61	Y	12.00%	State Data Source	The universe of major facilities is 66, not 76. Based on the answer to the previous metric, ADEQ has changed the percentage accordingly.	Universe inaccurate in OTIS; could not make initial evaluation

W10A 0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	10.7%	14.5%	11	76	65	Universe inaccurate in OTIS; could not make initial evaluation
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Appendix B

FILE SELECTION

Files to be reviewed can be selected according to a standard protocol and using a web-based file selection tool (available to EPA and State users here: http://www.epa-otis.gov/cgi-bin/test/srf/srf_fileselection.cgi). This protocol and tool are designed to provide consistency and transparency in the process. However, for the ADEQ CWA SRF review, EPA was unable to use the file selection tool because it did not include a complete and accurate universe of all types of facilities and types of actions, as follows. The list did not include biosolids, CAFOs, or storm water, and only included NPDES majors and minors, which was inaccurate and incomplete in terms of listing inactive facilities and not including all active facilities; SNC rate; informal and formal actions. In addition, EPA generated the PDA spreadsheet, but it also was inaccurate and incomplete for the same reasons. Nevertheless, the PDA spreadsheet was sent to ADEQ for their reconciliation. Therefore, EPA manually selected the files based on an accurate universe and compliance and enforcement activity inventory, as described below. After EPA completed its file review, ADEQ submitted the completed PDA, which is included in Appendix A of this report.

A. File Selection Process

Using information from ADEQ's AZURITE and ICE and EPA's PCS ISIS data systems, and the QNCR, EPA and ADEQ identified the universe of ADEQ facilities and actions that should be considered during the review period. The file selection was based on the "range of files based on size of universe" criteria, as set forth in EPA's SRF Implementation Guidance, April 2006. Specifically, the guidance suggests reviewing between 15 and 30 files, that the files represent different categories of dischargers, regional locations, include inspections and enforcement actions, and violations. The files reviewed at ADEQ offices are listed below.

Appendix B

ADEQ CWA NPDES FILES REVIEWED BY EPA							
Facility	Permit ID	Facility Type	Inspection Date	Enforcement		SN C Qtr	Area Office
Pinetop-Lakeside WWTP	AZ0025437	Biosolids	3/20/07	NOC	6/20/07		NRO
Larsen Farms	unpermitted	Biosolids	11/21/06 12/13/07 7/17/2008	NOV	5/30/08		
Western Rock Product		Storm water	3/22/2007				
Dunbar Stone Choc Mine		Storm water	9/13/07				
Nelson Lime Plant		Storm water	5/31/07 12/09/08				

Appendix B

ADEQ CWA NPDES FILES REVIEWED BY EPA							
Facility	Permit ID	Facility Type	Inspection Date	Enforcement		SN C Qtr	Area Office
Bella Terra		Storm water	10/17/06				
Flagstaff Mall		Storm water	5/16/07	NOC NOV	11/21/06 6/8/07		
Legendary Holsteins		CAFO	12/5/06 8/7/07 3/3/08	NOV CO	3/23/07 6/27/08		PHX
Van de Waerden/Calva		CAFO		CO	10/24/06		
Asarco Hayden Smelter	AZ0022314	NPDES (exp)	2/21/07	NOV	4/11/07		
Globe, City (Pinal Creek WWTP)	AZ0020249	NPDES Maj	9/19/07				
Superstition Mtns CFD #1	AZ0023931	NPDES Maj	12/13/06	NOC	1/9/07		
Palo Verde Utilities WRF	AZ0025071	NPDES Maj	3/13/07			4 th	
Canyon Lake Marina	AZ0025640/AZ0021440	NPDES Min (expired)	6/27/07 7/2/08 11/12/08	NOV NOV	2/13/07 9/11/07		
Hassayampa Landfill		Storm water	6/29/07	NOC	8/29/07		
Pilot Travel Center		Storm water	8/1/06 8/1/07 6/25/08	NOV			
Jensen Property		NPDES	4/24/07 4/26/07	NOV CpO	4/10/07 1/13/09		SRO
Asarco January Adit Mine	AZ0025054	NPDES Min	2/7/07				
Pima County WWTP Ina Road	AZ0020001	NPDES Maj	3/8/07 11/20/07			1 st	
Pima County WWTP Marana	AZ0024520	NPDES Maj	12/14/06				
		Storm water	12/14/06 8/10/07	NOC	9/26/07		
Huachuca Concrete		Storm water	2/13/06 8/9/06 1/11/07 7/19/07	NOC	2/16/06		

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ADEQ CWA NPDES FILES REVIEWED BY EPA							
Facility	Permit ID	Facility Type	Inspection Date	Enforcement		SN C Qtr	Area Office
Tucson Origins Heritage Park Lloyd Const. Co. City of Tucson Granite Const. Co.		Storm water	8/3/07	NOV NOV NOV	9/25/07 10/18/07 7 9/25/07		
TOTAL FACILITIES	22		35	20		2	
	Informal Actions NOC—Notice of Opportunity to Correct NOV—Notice of Violation			Formal Actions CO—Consent Order CpO—Compliance Order			

Appendix C

FILE REVIEW ANALYSIS CHARTS

This section presents the initial observations of the Region regarding program performance against file metrics. Initial Findings, (See Appendix B) are developed by the region at the conclusion of the File Review process. The Initial Finding is a statement of fact about the observed performance, and should indicate whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Analysis Chart in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the State have occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report. The quantitative metrics developed from the file reviews are initial indicators of performance based on available information and are used by the reviewers to identify areas for further investigation. Because of the limited sample size, statistical comparisons among programs or across states cannot be made.

Appendix C

Arizona Department of Environmental Quality			Review Period: FY07					
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions					
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	0%	35 out of 35 files reviewed did not have data accurately reflected in PCS.					
Metric 4a	Planned inspections completed	various	In its workplan, ADEQ committed to and completed:					
			7/1/06-6/30/07	Majors	Minors	Storm water	Biosolids	CAFOs
			Target	55	93	150	24	40
			Actual	57	57	203	18	16
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and	78%	In its workplan, ADEQ committed to 32 actions and completed all but 7 of them. See Appendix ____ for details					

Appendix C

Arizona Department of Environmental Quality		Review Period: FY07	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
	describe what was accomplished.		
Metric 6a	# of inspection reports reviewed.	35	35 inspection reports for 22 facilities were reviewed. For six of these reports, the inspections were conducted outside the review period, but were reviewed because they were connected to enforcement actions in FY07, or were in the file.
Metric 6b	% of inspection reports reviewed that are complete.	Not calculated	Using the Round 2 Inspection Report checklist, we found that most inspections reports properly and accurately documented observations, and included such information as inspection date, NPDES or other ID

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Arizona Department of Environmental Quality			Review Period: FY07
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	Not calculated	<p>number, type and purpose of inspection, facility description and area evaluated, inspection participants, regulated activities pertinent to the inspection, regulated areas evaluated, inspector observations and documentary support (photos and facility logs, etc.), and permit requirement or regulatory citation. Even though most reports included these categories, not all information was consistently included in each report, as follows.</p> <p>Inspection time was omitted in several reports. Some reports cited inspections type but not purpose, or vice-versa, or were instead included in the transmittal letter. Several reports did not include complete facility information, including address and phone number. Some reports described the area evaluated but did not adequately describe the facility, the areas subject to inspection were not identified, and it was not evident if the regulated areas were inspected. A few reports did not cite the permit or other requirements, cited wrong requirements, and did not relate the observations back to the requirements. Some reports did not include the referenced photos, cited the number of deficiencies but did not list or describe them, did not evaluate compliance with effluent limits or cite SNC, and analytic results were cited but not compared to anything. An inspection checklist was used for only about half of the inspections, and many reports were not signed or dated by the responsible agency representative, although the transmittal letter was signed and dated.</p>
Metric 6d	% of inspection reports that are reviewed in a timely manner.	97%	34 of the 35 reports were reviewed in a timely manner, according to ADEQ procedures. This universe of files is the same as 6b above.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	Not calculated	Most inspection reports that were reviewed led to accurate compliance determinations, since most resulted in NOCs, NOVs, or were follow-up inspections.

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Arizona Department of Environmental Quality			Review Period: FY07
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 8b	% of single event violation(s) that are accurately identified as SNC	0%	Single event violations that meet EPA policy are not identified as such in ADEQ's reports.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	ADEQ does not enter single event violations into PCS.
Metric 9a	# of enforcement files reviewed	20	20 enforcement action files for 14 facilities were reviewed. Files for three enforcement actions that occurred outside the review period were reviewed because they were related to actions occurring within the reporting period.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	0%	ADEQ did not issue any enforcement actions to facilities in SNC (per EPA's SNC definition).
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	40%	Of the files that were reviewed that had violations identified in an inspection report, 9 of 20 enforcement actions timely returned the facility to compliance. The remaining exceeded deadlines or continue to be in noncompliance,
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	0%	ADEQ did not issue any enforcement actions to facilities in SNC (per EPA's SNC definition).

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Arizona Department of Environmental Quality		Review Period: FY07	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	0%	ADEQ did not issue any enforcement actions to facilities in SNC (per EPA's SNC definition).
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	94%	8 out of 20 files with non-SNC violations were responded to with enforcement actions that were appropriate. The universe of files for this metric was the number of files with non-SNC (per EPA definition) violations.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	73%	11 out of 15 files with non-SNC violations took action in a timely manner. The universe of files has two less than 10d above. This is because in one of the files, a compliance agreement was signed between MDEQ and the violator that captured a solution to a problem long-discussed by both; normal timeliness standards could not be applied to this situation.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	0%	ADEQ did not implement its penalty policy during the review period.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	ADEQ did not implement its penalty policy during the review period.
Metric 12b	% of enforcement actions with	0%	ADEQ did not implement its penalty policy during the review period.

Appendix C

Arizona Department of Environmental Quality		Review Period: FY07	
CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
	penalties that document collection of penalty.		

Appendix D

ADEQ'S COMPLETION OF AGREEMENT COMMITMENTS: 7/1/06-6/30/07				
GOAL #1: Clean & Safe Water			Program #'s: 4500:	
Surface Water Regulation				
Objective #3: Reduce pollutant loading to surface water.				
TASK/ GRAN T	OUTPUT DESCRIPTION	TARGE T	ACTUAL	
1.3.3	TASK: "Surface Water Compliance and Enforcement" and DELIVERABLES:			
PPG	Perform compliance inspections of point source facilities. Inspect all major NPDES facilities annually.	55	57	NRO = 8 SRO = 12 PHX = 36
PPG	Perform scheduled compliance inspections of NPDES minor point source facilities. Inspect all minor NPDES facilities on an annual basis.	93	57	NRO = 29 SRO = 9 PHX = 19
	Perform follow-up inspections of previously inspected facilities.	As needed	11	NRO = 4 SRO = 6 PHX = 1
	4)a) Conduct inspections of permitted Storm water facilities. Industrial	74	65	NRO = 10 SRO = 46 PHX = 9
	ii) Construction	76	138	NRO = 12 SRO = 82 PHX = 44
	b) Report number and percent of facilities inspected that are covered under the general construction and industrial storm water AZPDES permits.	Monthly		
	5) Perform compliance inspections of CAFO/AFO facilities.	40	16	
	6) Perform compliance inspections of biosolids facilities.	6	8	
	a) Wastewater treatment plants			
	b) Land application sites	18	10	
	7) Provide outreach assistance in biosolids	4	2	
	8) Target watersheds or sectors in each of the following priority watershed areas and conduct inspections of permitted	Determine at	6	NRO = 0 SRO = 0

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ADEQ'S COMPLETION OF AGREEMENT COMMITMENTS: 7/1/06-6/30/07			
GOAL #1: Clean & Safe Water		Program #'s: 4500:	
Surface Water Regulation			
Objective #3: Reduce pollutant loading to surface water.			
TASK/ GRAN T	OUTPUT DESCRIPTION	TARGE T	ACTUAL
	and non-permitted sites: Middle Gila and Salt River.	quarterl y meeting s	PHX = 6
	9) Issue Notices of Opportunity to Correct (NOCs) and/or Notices of Violation (NOVs) and monitor corrective actions taken to return to compliance.	As needed A = 59	NRO = 2 SRO = 22 PHX = 35
	10) Conduct complaint investigations according to complaint investigation protocols and guidelines.	As needed	52 NRO = 12 SRO = 18 PHX = 22
	11) Provide site-specific compliance assistance.	As needed	20 NRO = 2 SRO = 5 PHX = 13
	12) Conduct joint inspections with delegated entities.	15	7 NRO = 0 SRO = 6 PHX = 1
	13) Conduct inspections and investigate complaints of those facilities discharging without an AZPDES permit	As needed	14 NRO =57 SRO = 1 PHX = 8
	14) Compare and review facility information provided on discharge monitoring report forms with State water quality protection database information (WCET)	200	788
PPG	15) Perform facility file verification of reporting violations discovered through use of the water quality protection database before issuance of Notices of Violation, then modify database accordingly.	T = 100 9 2 A = 92	92
PPG	16) Enter discharge monitoring report data into PCS within 20 days of receipt of the discharge monitoring report (DMR).	As needed	610

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ADEQ'S COMPLETION OF AGREEMENT COMMITMENTS: 7/1/06-6/30/07

GOAL #1: Clean & Safe Water Program #'s: 4500:

Surface Water Regulation

Objective #3: Reduce pollutant loading to surface water.

TASK/ GRAN T	OUTPUT DESCRIPTION	TARGE T	ACTUAL
PPG	17) Enter NPDES information into PCS within 45 days of inspection.	As needed	109
PPG	18) Perform monthly quality control of PCS data to identify missing or incorrect data.	12	188
	19) Prepare Quarterly Non-Compliance Report from PCS.	Quarterly	4
	20) Prepare agency-wide enforcement docket.	Quarterly, as needed	4
PPG	21) Maintain periodic data transfers from WCET to PCS.	As scheduled	0
PPG	22) Coordinate with EPA R9 the input of minor source NPDES compliance information into WCET and produce a QNVR report.	Quarterly	4
	23) Issue Notices of Violation and track schedules for permit violations.	As needed	SRO = 12 CRO = 1
PPG	24) Issue Administrative Orders and track schedules.	As needed	0
PPG	25) Referrals to the Attorney General's Office	As needed	0
	26) Close enforcement actions.	As needed	34 NRO = 13 CRO = 21
	27) Review concluded cases and those under development during monthly teleconferences.	As needed	32 NRO = 0 SRO = 28 CRO = 4
	28) Coordinate with EPA, Department of Agriculture, and NRCS to develop and implement a plan for creation of a regional nutrient management program.	06/07	
	29) Hold meetings and/or conference calls with EPA to discuss CWA enforcement. Document agreement on discussed items and follow up actions. Provide list of cases monthly. One call each quarter will be devoted to discussing the QNCR/QNVR list and the details of actions taken on each SNC on the QNVR	Monthly	2

Appendix D

ADEQ'S COMPLETION OF AGREEMENT COMMITMENTS: 7/1/06-6/30/07			
GOAL #1: Clean & Safe Water		Program #'s: 4500:	
Surface Water Regulation			
Objective #3: Reduce pollutant loading to surface water.			
TASK/ GRAN T	OUTPUT DESCRIPTION	TARGE T	ACTUAL
	list. Quarterly call schedule: -September 2006 -December 2006 -March 2007 -June 2007		
PPG	30) Provide written enforcement report to EPA which includes: a) number of Administrative Orders issued; b) number of Administrative Orders issued resulting in compliance; c) penalties (civil, assessed and collected); d) brief description of SEPs accepted; e) brief description of civil actions initiated and concluded every two quarters (twice per year); scheduled as follows: -September 2006 -December 2006 -March 2007 -June 2007	Quarterl y	1
PPG	31) Track all inspection and enforcement actions in State database (ICE).	As needed	433 PHX = 136 NRO = 60 SRO = 137
PPG	32) Develop CAFO inspection/enforcement and Compliance Assistance Program including USDA, NRCS, and AZ Dept. of Agriculture.	As needed	Done

ADEQ'S COMPLETION OF AGREEMENT COMMITMENTS: 7/1/06-6/30/07
EXCEPTION REPORT COMMENTS
4TH QTR:
Deliverable 1: ADEQ inspected 57 major NPDES/AZPDES facilities during FY07. The target was 55, but at least one facility was formerly a minor facility and was upgraded during FY07.
Deliverable 2: The target of total minor NPDES/AZPDES facilities should be 88, not 93; some have been upgraded to major facilities and a few no longer have discharges or permits. ADEQ inspected 47 minor facilities during FY07. Although the workplan committed ADEQ to inspect all minor facilities annually, ADEQ focused its efforts in insuring all major facilities were inspected. The Phoenix office of the State had a vacancy in the Field Services Unit during most of the FY and also has the majority of major facilities, so the shortfall was largely in this area.
Deliverable 3ai: Storm water inspections during FY07 were 9 short of the target. The shortfall occurred

primarily in the Phoenix office where there was a storm water inspector position vacancy. In addition to the vacancy, one inspector spends a significant portion of his time providing support to the State's civil penalty action in the *La Osa* matter for violations of the Clean Water Act. Finally, the lack of a current MSGP in Arizona (neither EPA nor AZ currently has a valid permit) makes it difficult for inspectors to enforce SWPPP requirements.

Deliverable 4b: ADEQ did not track the number of facilities inspected that are covered by the AZPDES construction storm water permit (there is currently no MSGP in Arizona) due to limited resources and because many, if not most, storm water inspections are complaint driven.

Deliverable 5: The CAFO Coordinator position at ADEQ was filled in November. The coordinator has since conducted 16 inspections and has worked very hard to re-establish CAFO information at ADEQ, including facility information, an inspection checklist and outreach plans.

Deliverable 6: The Biosolids Coordinator position at ADEQ was filled in November. The coordinator has since conducted 18 inspections, including exceeding the FY target for wastewater treatment plant inspections.

Deliverable 7: See comment to deliverable 6.

Deliverable 28: This work is underway.

Deliverable 30: One Administrative Order was issued during the FY; no penalty cases were completed.

