

**Idaho State Review Framework Final Report**  
**Air and RCRA Programs**  
**Review Conducted in FY 2010 for Program Implementation in FY 2008**  
**September 30, 2010**

**I. EXECUTIVE SUMMARY**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation, 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**

- **Priorities: RCRA**
  - IDEQ continues a responsive complaint program and performs technical assistance outreach to address waste management issues particularly with small businesses. This was particularly true with the salvage yard sector approach that IDEQ instituted in FY 2008 to improve waste management at these facilities in Idaho.
- **Priorities: CAA**
  - Development and implementation of new legislation, administrative rules, state implementation plan, and programmatic policies and procedures addressing crop residue burning within the state of Idaho.
- **Accomplishments: RCRA**
  - Idaho conducted 216 regulatory and compliance assistance inspections in FFY 2008. Of those inspections, 55 were compliance assistance/technical assistance inspections. IDEQ assessed penalties totaling \$172,610 mainly at hazardous waste

generator facilities and at one permitted hazardous waste storage facility (Safety Kleen) in FY 2008. This level is consistent with prior reviews.

- Accomplishments: CAA
  - During FFY 2008, the Air Quality Program completed the following compliance and enforcement related activities:
    - Conducted 91 inspections;
    - Conducted 39 FCEs;
    - Investigated 221 complaints;
    - Initiated 22 separate enforcement actions;
    - Issued 19 Notices of Violations;
    - Negotiated 7 Consent Orders; and
    - Collected \$72,330 in civil penalties.
  
- Best Practices: RCRA
  - IDEQ continues a responsive complaint program and performs technical assistance outreach to address waste management issues particularly with small businesses. This was particularly true with the salvage yard sector approach that IDEQ instituted in FY 2008 to improve waste management at these facilities in Idaho.
  
- Best Practices: CAA
  - Participation in an aggressive process improvement and streamlining event that focused on immediate and ongoing improvements to the Air Quality Enforcement Program.

## **B. SUMMARY OF RESULTS**

- Recommendations from Round 1 – All ten recommendations from Round 1 were considered complete as of the start of Round 2. However, Region 10 has found in its CAA Round 2 review that data inaccuracies are a re-occurring issue.
  
- RCRA Round 2 Results:
  - *Good Practices*  
None were found.
  
  - *Areas which meet SRF Requirements:*  
Data completeness (element 1), timeliness of data entry (element 3), completion of commitments (element 4), inspection coverage (element 5), quality of inspection or compliance evaluation reports

(element 6 – finding 6.1), identification of alleged violations (element 7), identification of SNC (element 8), and enforcement actions promote return to compliance (element 9).

- *Areas for state attention:*  
Data accuracy (element 2): the majority of the data in the database accurately reflected the documentation in the files (2 of 16 files) reviewed. This is not a major issue.

Quality of inspection or compliance evaluation reports (element 6, finding 6.2): inspection reports do not consistently state the type of inspection or the reasons for the inspection. However, the state does consistently state that the purpose of the inspection is to inspect for compliance with the hazardous waste regulations.

- *Areas for state improvement:*  
None were found.

- CAA Round 2 Results:

- *Good Practices:*  
None were found

- *Areas which meet SRF requirements:*  
Quality of inspection or compliance evaluation reports (Element 6), identification of alleged violations (Element 7), enforcement actions promote return to compliance (Element 9), timely and appropriate action (Element 10), and final penalty assessment (Element 12).

- *Areas for state attention:*  
Timeliness of Data Entry (Element 3): Data entry for which Idaho is responsible (Non-HPV data), appeared to be entered into the national database in a timely manner. However, the reporting of HPV activities to Region 10 for their entry into AFS and EPA's entry of HPV activities into AFS has not always been timely.

Completion of commitments (Element 4) & inspection coverage (Element 5): IDEQ met its work plan and major source FCE commitment but is behind schedule in meeting its SM80 FCE schedule. This metric relates to the five-year SM80 CMS cycle. At the time of the review, IDEQ still had three years to meet this commitment.

Identification of HPVs (Element 8, Finding 8.1): the majority of the time (86%) the state accurately identifies significant non-compliance violations. One of the files reviewed included an

unreported HPV. However IDEQ and EPA disagree on the applicability of the HPV policy to this case.

Penalty calculation method (Element 11): The state regularly calculates both the gravity and economic benefit. Although there was a lack of hardcopy documentation in one case file, in accordance with existing policy IDEQ considered the economic benefit, which could not be determined, and maintained the penalty calculation documentation electronically.

o *Areas for state improvement:*

Element 1 – Data Completeness

Finding 1.1: Idaho’s data in the national data base is incomplete.

Recommendation 1.1: EPA and IDEQ shall initiate monthly HPV communications, EPA shall provide a written interpretation of its HPV policy as it relates to PM process weight rate emission violation, EPA shall provide HPV training to IDEQ’s staff, and IDEQ shall start entering HPV activities into the national data base.

Element 2 – Data Accuracy

Finding 2.1: Eight of 16 files reviewed (50.0%) contained discrepancies concerning HPV or enforcement activities.

Recommendation 2.1: EPA and IDEQ shall initiate monthly HPV communications, EPA shall provide a written interpretation of its HPV policy as it relates to PM process weight rate emission violation, EPA shall provide HPV training to IDEQ’s staff, and IDEQ shall start entering HPV activities into the national data base.

Element 8 – Identification of HPVs

Finding 8.2: HPVs are not being timely reported in AFS. Miscommunications between EPA and IDEQ, including interpretations of the HPV policy and EPA not entering information into AFS after IDEQ provided EPA with the necessary information, have prevented Region 10 from entering HPV enforcement activities into AFS in a timely manner.

Recommendation 8.2: Within 30 days of report finalization, EPA and IDEQ shall initiate monthly HPV communications; within 90 days EPA shall provide written interpretation of its HPV policy as it applies to state process weight rate PM emission violations and PM NSPS violations; and within 30 days of the written interpretation, EPA shall provide HPV training to IDEQ staff.

## **C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS**

No Significant cross-media findings were found between the RCRA and CAA programs. All significant findings and recommendation pertain to the CAA program.

## **II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS**

### **A. GENERAL PROGRAM OVERVIEW**

- Agency Structure:

The Idaho Department of Environmental Quality (IDEQ) is a state department created by the Idaho Environmental Protection and Health Act to ensure clean air, water, and land in the state and protect Idaho citizens from the adverse health impacts of pollution. Within the department are five divisions responsible for developing, administering, and enforcing environmental policies and for providing technical and administrative support. The five divisions include: Air Quality, Water Quality, Waste Management and Remediation, Environmental Management and Information, and Technical Service. Division staff is housed in the department's state office in Boise. On-the-ground implementation of environmental programs is conducted by six regional offices throughout the state in the following cities: Boise, Coeur d'Alene, Idaho Falls, Lewiston, Pocatello and Twin Falls. In addition, four satellite offices are located in Cascade, Grangeville, Kellogg and Soda Springs. These satellite offices, however, are not instrumental in the implementation of the hazardous waste or CAA programs in Idaho.

- Compliance/Enforcement Program Structure:

The IDEQ hazardous waste and CAA programs are centralized programs with implementation at the Regional Office level and enforcement decision-making at the Division level. Each IDEQ Regional Office is responsible for conducting RCRA and CAA inspections. The Regional Offices are required to provide personnel capable of performing proper RCRA and CAA inspections or contracting with IDEQ's Technical Services Division for the required work. Compliance Assistance is provided through the Technical Services Division. The most concentrated area of work is within the Boise Regional Office. Regional Office staff makes recommendations regarding enforcement actions to the Waste Management and Remediation Division Office and the Air Quality Division Office in Boise. Centralized enforcement decision-making provides for a consistent enforcement program throughout the State.

- Roles and responsibilities: RCRA

The IDEQ Hazardous Waste Program had approximately 17.8 full time equivalent (FTE) staff in 2008, including staff dedicated to implementation of the hazardous waste program at the Idaho National Laboratory, a Department of Energy facility. They regulated 1263 hazardous waste handlers registered in Idaho including three operating Treatment Storage and Disposal Facilities, 26 Large Quantity Generators and 113 Small Quantity Generators. The compliance manager in the Boise Division Office worked with staff in the six Regional Offices to evaluate violations and pursue enforcement cases. IDEQ also worked with the Idaho Attorney General's Office to resolve formal enforcement actions. Six attorneys are located in the Attorney General's Office which is co-located in IDEQ's state office in Boise. Every two months, RCRA staff from the Division Office, the six Regional Offices, the Technical Services Division, and the Attorney General's Office holds a teleconference to coordinate state-wide compliance and enforcement activities including planning, targeting, case status, areas for compliance assistance focus, and other regulatory issues. There is no other state or local organizations involved in the implementation of the hazardous waste program.

EPA oversees implementation of the authorized State program in order to ensure full execution of the requirements of RCRA. Oversight of the State's program is accomplished by EPA through written reporting requirements, the State grant work plan, permit overview, compliance and enforcement overview, and an annual review of the State's program. In addition, EPA and IDEQ hold a quarterly conference call to coordinate and review permitting, compliance and enforcement, and program management activities. Since IDEQ has no authority on Tribal Land, EPA implements the RCRA program in these areas.

- Roles and responsibilities: CAA

During FFY 2008, IDEQ had 27.4 full time equivalent (FTE) staff, including staff dedicated to the implementation of the Air Quality Program. The Air Quality Division utilizes various compliance and enforcement activities to ensure that environmental protection requirements are being met, including but not limited to the following activities:

- Periodic inspections of industrial, commercial, and other stationary sources of air pollution;
- On-site complaint investigations to determine whether applicable laws, rules, or permits have been violated;
- On-site technical consultations to help Idaho businesses comply with state environmental requirements;

- Education and outreach to inform both the public and the regulated community of pollution prevention opportunities, environmental requirements, and to encourage compliance with federal and state laws and rules; and
- When appropriate, enforcement is used to identify, address, and resolve apparent violations of relevant federal and state rules, regulations, permits, or orders.

EPA oversees implementation of the authorized State program in order to ensure full execution of the requirements of the CAA. EPA accomplishes oversight of IDEQ's CAA program through various reporting requirements, plans, strategies, overview and audit activities, quarterly conference calls, and an annual review of IDEQ's program. Since IDEQ has no authority on Tribal Land, EPA implements the CAA program in these areas.

- Local Agencies included/excluded from review:

There are no local agencies involved in the implementation of the hazardous waste program in the State of Idaho.

- Resources: RCRA

The IDEQ Hazardous Waste Program had approximately 17.8 full time equivalent (FTE) staff in 2008, including staff dedicated to implementation of the hazardous waste program at the Idaho National Laboratory, a Department of Energy facility. Resources included program management activities, permitting/corrective action activities, compliance and enforcement activities including inspectors, information management, and clerical and support services. Attorney staff are located in the Attorney Generals office and are not included in the FTE noted above.

IDEQ's budget for 2008 to implement the hazardous waste program was \$1.7 million including personnel, supplies, contractual expenses to implement a chemical roundup for Idaho schools, and travel.

There are no resource constraints that present major obstacles to program implementation.

- Resources: CAA

During FFY 2008, IDEQ had 27.4 full time equivalent (FTE) staff dedicated to the implementation of the Air Quality Program.

- Staffing/Training: RCRA

The IDEQ hazardous waste program was fully staffed in 2008. In general, IDEQ has enjoyed low staff turnover and highly experienced staff over the last 10 years. Although not pertinent to the 2008 SRF review, IDEQ has lost two positions due to the departure of a permit writer and the death of a program manager. While an existing staff-level inspector/permit writer was moved into the program manager vacancy, the staff position has not yet been backfilled. Due to state budget issues and a current hiring freeze (which occurred after the review period), it is uncertain as to when these two positions will be backfilled.

Ongoing staff training has generally been accomplished through teleconferences every other month between RCRA staff from the Division Office, the six Regional Offices, the Technical Services Division, and the Attorney General's (AG) Office. In addition, in 2008, IDEQ coordinated and hosted a Sampling for Hazardous Materials Course in Boise to maintain and improve hazardous waste sampling skills. Thirty-two people participated. An in-person meeting of IDEQ and AG hazardous waste staff was held in Boise immediately following this training. Currently, opportunities for in-person training have been reduced due to cuts in travel budgets and a freeze on travel spending.

- Staffing/Training: CAA

During FFY 2008, the IDEQ's Air Quality Program was fully staffed.

Staff training is an ongoing and continuous priority. IDEQ staff, outside providers, or the EPA, generally provides staff training. Due to ongoing state budgetary restraints, IDEQ has focused on in-house training and web-based training courses or providers. Periodically, EPA or other regulatory, environmental associations host or pay for training that IDEQ staff is eligible to attend.

For example, IDEQ's Air Quality Compliance and Enforcement Program staff participated in a number of training courses during FFY 2008, including but not limited to: the 11<sup>th</sup> Annual Air Inspector's Workshop; NACCA Enforcement Workshop; Asbestos NESHAP Inspection and Safety Procedures Workshop; and various in-house Compliance and Enforcement Workshops.

- Data reporting systems/architecture: RCRA

The State uses, maintains, and enters RCRA data into the national RCRAInfo data management system. The State is responsible for the correctness of the data that it enters. The state enters all required RCRA Core data monthly into RCRAInfo. The State also collects Biennial Reporting data and provides Biennial Reporting System (BRS) data that has passed all basic BRS edits to EPA for loading into the national BRS according to the schedule promulgated by EPA. As resources allow,



EPA assists the State in developing RCRAInfo reports. In addition, IDEQ produces for the Idaho legislature an annual report titled "Hazardous Waste Management in Idaho." This report, required by IDEQ's enabling legislation, summarizes the amounts of hazardous waste generated in Idaho, how the waste was managed, any waste remaining on-site, and the amount of hazardous waste imported into Idaho. It is distributed to large and small quantity hazardous waste generators within the State.

- Data reporting systems/architecture: CAA

Idaho's Air Quality Division currently has a state wide reporting database called AIMS (Air Information Management System). All basic information for a source (name, address, air program code applicability and subparts) is entered by the state air quality permit writers in AIMS. Inspection and enforcement actions are routed to Idaho's AFS data manager who enters the reported activity into both systems (AFS and AIMS).

Idaho's computer staff, along with the AFS data manager, is in the beginning stages of developing a new state/regional office accessible database. This new database will allow for all state/regional office staff to enter enforcement and inspection activities. This new database will also have the ability to upload MDRs (Minimum Data Requirements) reportables directly into AFS using the UI integrate software. This would eliminate the duplicate data entry and allow for a direct upload to AFS. This change has the potential to shorten the time between when an activity occurs and is entered into AFS.

## **B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS**

- Priorities: RCRA

Idaho continued to place a high priority on compliance monitoring and enforcement at federal facilities and other permitted Treatment, Storage and Disposal Facilities. This provided a strong core component in the authorized hazardous waste program. In addition, IDEQ continued a responsive complaint program and technical assistance program. This program dealt with tips and complaints and provided technical assistance outreach to small businesses to address waste management problems. Salvage yard waste management issues, responding to mercury spills at schools and in communities, and prequalification issues as related to Safety Kleen waste determinations were areas of particular activity in FY 2008.

- Priorities: CAA

During FFY 2008, the Idaho Department of Environmental Quality (IDEQ) implemented a restructured and revised Crop Residue Burn (CRB) Program in response to litigation that challenged the basic rule allowing the use of an open burning to dispose of crop residue.

In January 2007, the United States Court of Appeals for the Ninth Circuit (Ninth Circuit) entered a decision to grant Safe Air for Everyone's (SAFE) petition for review and remand of the Environmental Protection Agency's (EPA) approval of a 2005 clarification to Idaho's State Implementation Plan (SIP), required by the Clean Air Act, authorizing field burning (i.e. Crop Residue Disposal) as an allowable form of open burning in the State of Idaho. The Ninth Circuit's decision found EPA's approval of Idaho's 2005 SIP clarification "*legally unsustainable*," as Idaho's proposed changes were in fact amendments to a pre-existing SIP. The decision prompted the state of Idaho to bar growers from burning crop residue, outside Indian reservations, to clear their fields. Because field burning was no longer permissible, open burning to dispose of crop residue was considered a violation of the Rules for the Control of Air Pollution in Idaho; and became enforceable under Section 39-108 of Idaho's Environmental Protection and Health Act.

Governor C.L. "Butch" Otter called for the growers and activists to join with the state regulators to negotiate a solution for the crop residue burning problem. The negotiation process began in earnest in July 2007. Various meetings were held to: identify and address issues; design a program that was protective of public health; design a program that was transparent to the public; and restore the use of open burning as a tool for growers and farmers.

Although an agreement was reached in December 2007, IDEQ still needed to achieve a number of significant milestones before open burning of crop residue would once again become an allowable form of open burning in Idaho. In early 2008, IDEQ initiated negotiated rulemaking, modified state statute, promulgated temporary rules, and drafted revisions to Idaho's SIP. In late May 2008, IDEQ submitted their SIP revisions to EPA for review.

While awaiting EPA's approval of the SIP, IDEQ continued to hire and train several new permanent and seasonal employees; develop program operating guides, procedures, and tools; develop and implement online tools and resources; and conduct public outreach. Finally, on September 1, 2008, EPA approved IDEQ's SIP submittal.

On September 2, 2008, just 20 months after banning crop residue burning, crop residue burning was once again an allowable form of open burning in Idaho.

Furthermore, with the help of growers; activists; various state, tribal, and federal employees; various other sources, and IDEQ's dedicated employees, IDEQ was able to whittle a three-year SIP revision process down to just eight-months.

Following the implementation of the Crop Residue Burn (CRB) Program, in September 2008, IDEQ's Air Quality Compliance and Enforcement Programs focused their efforts on enveloping the newly created CRB Program. With oversight from the CRB Program, IDEQ's Air Quality Compliance and Enforcement Programs reprioritized their workloads to ensure that the CRB Program is consistently implemented and enforced statewide.

Since 2008 was the CRB Program's first year, IDEQ focused primarily on compliance assistance; however, a number of violations resulted in the initiation of formal enforcement actions. IDEQ's main goals during the first year was to introduce the growers to the CRB Program; to educate the growers on the CRB Program's rules and permitting requirements; and to help the growers comply. This was particularly important in southern Idaho, where the concept of a regulated crop residue burning program was relatively new.

The CRB Program relied on the Air Quality Division's existing Compliance Program to respond to crop residue burning complaints within 24 hours of receiving a complaint, investigate apparent crop residue burning violations, and to refer all apparent crop residue burning violations to the Air Quality Division's Enforcement Program within 30 days of conducting an investigation. Likewise, the CRB Program relied on the Air Quality Division's existing Enforcement Program to evaluate and pursue enforcement on all apparent crop residue-burning violations.

Therefore, enforcement of the newly created CRB Program was of high importance to IDEQ during FFY 2008. As such, IDEQ initiated and pursued 1ten separate enforcement actions for violations of the CRB rules. Of the 22 enforcement actions pursued during FFY2008, these ten CRB cases translate to approximately 46% of the Air Quality Division's enforcement load during FFY 2008, and resulted in the collection of approximately \$10,200 in penalties.

- Accomplishments: RCRA

Idaho conducted 216 regulatory and compliance assistance inspections in FFY 2008. Of those inspections, 55 were compliance

assistance/technical assistance inspections. IDEQ assessed penalties totaling \$172,610 mainly at hazardous waste generator facilities and at one permitted hazardous waste storage facility (Safety Kleen) in FY 2008. This level is consistent with prior reviews.

- Accomplishments: CAA

During FFY 2008, the Air Quality Program completed the following compliance and enforcement related activities:

- Conducted 91 inspections;
- Conducted 39 FCEs;
- Investigated 221 complaints;
- Initiated 22 separate enforcement actions;
- Issued 19 Notices of Violations;
- Negotiated 7 Consent Orders; and
- Collected \$72,330 in civil penalties.

- Best Practices: RCRA

IDEQ continues a responsive complaint program and performs technical assistance outreach to address waste management issues particularly with small businesses. This was particularly true with the salvage yard sector approach that IDEQ instituted in FY 2008 to improve waste management at these facilities in Idaho.

- Best Practices: CAA

In FFY09, IDEQ conducted an Air Quality Compliance and Enforcement Process Improvement and Streamlining (i.e. Kaizen) event. Although this event occurred outside of the FFY08 review period, it is important to note its occurrence. The outcome(s) of this exercise will have a positive affect on operations of the program in the future (post FFY2009).

In December 2008, IDEQ underwent an aggressive streamlining and process improvement (Kaizen) event, in order to rectify procedural and programmatic inefficiencies in the Air Quality Division's Enforcement Program. The following is a summary of several identifiable issues that led to the Kaizen event, a brief description of the Kaizen exercise, and IDEQ's anticipated results/outcomes:

#### Issues

IDEQ is comprised of a Program Office in Boise and six Regional Offices in Coeur d'Alene, Lewiston, Boise, Twin Falls, Pocatello, and Idaho Falls. The Program Office is responsible for the oversight and

development of programmatic issues, while the Regional Offices are the front-line staff responsible for carrying out IDEQ's mission(s). The Program Office and each Regional Office possess a separate management construct, all of which communicate and report to IDEQ's Director individually. Therefore, based on the structure and design of IDEQ's organizational flowchart, the Program Office and Regional Office's must work harmoniously to ensure IDEQ meets its mission(s), goals, and objectives in a timely and appropriate fashion.

The Air Quality Division's Compliance and Enforcement Program is similarly structured. Each office possesses its own separate management construct, with oversight and programmatic development residing in the Program Office, and the inspectors and field staff residing in the Regional Offices. Coordination among these offices falls to one person, the Compliance and Enforcement Coordinator.

The Compliance and Enforcement Coordinator is responsible for defining and developing the Regional Office's compliance commitments; ensuring the Regional Offices fulfill their commitments; and supervising changes, improvements to the program. Because each office: encompasses its own management construct; must manage their own specific needs; and responds to a diversity of issues, the Compliance and Enforcement Coordinator must constantly juggle the competing needs of the Program Office, each Regional Office, the public, and the regulated community. The interaction between the Compliance and Enforcement Coordinator and the Regional Offices is often cumbersome, time consuming, and inefficient.

In short, the Compliance and Enforcement Program's efficiency has degraded over time, and it struggles to meet commitments and obligations in a timely fashion. Possible reasons for this include, but are not limited to:

1. The program has not undergone a process improvement or streamlining event in recent years.
2. Lacks specific policies, guidance, and standard operating procedures needed to concentrate and direct programmatic tasks.
3. Activities are often time consuming, resource intensive, and duplicative.
4. Regional Office's are using the same staff members to manage multiple programs and juggle competing needs.
5. There are inconsistencies in the implementation and management of the Compliance and Enforcement Program within the Regional Offices.
6. The Program Office does not always provide clear direction and expectations.
7. The Regional Office's often view the Program Office as the dictator of policy rather than a provider of guidance and assistance.

## Kaizen

In an effort to address these issues and to create and maintain a harmonious relationship between the Regional and Program Offices, beginning on December 8, 2008, IDEQ in partnership with Guidon Performance Solutions, held the Air Quality Enforcement Kaizen event. During the event, team members utilized a number of process improvement and streamlining tools to map the existing process flow, identify area for improvement, brainstorm possible fixes, redesign and map the process flow, and identify the resources necessary to implement the new process.

The process improvement and streamlining tools that Guidon had the team members use were a mixture of “Lean Processing” and “Six Sigma” tools. Guidon strategically employs these tools in such a manner (collectively referred to as “LeanSigma<sup>®</sup> Kaizen methodology”) to account for the operational nuances experienced in bureaucracies and governmental agencies.

## Anticipated Results/Outcomes

An Enforcement Program focused on timely and appropriate enforcement, with clear direction and coordination of effort, and synergy among the various statewide offices.

To develop and implement a streamlined and efficient Enforcement Program capable of consistently accomplishing its commitments and obligations without duplicity, while meeting the individual Regional Office’s needs and the program’s budget allocation.

To develop and implement a process flow, policies, guidance, and standard operating procedures that define the roles and responsibilities of the Regional Office and Enforcement Program staff and direct their daily activities to increase productivity and efficiency, increase customer service, decrease errors, increase consistency within the Program Office and Regional Offices, and allow for ongoing and continuous improvements.

Lastly, to determine whether the Regional Office’s and the Enforcement Program needs additional resources (e.g. staff, equipment, electronics, etc.) to achieve its commitments and obligations and to define what these necessary resources may be.

## C. PROCESS FOR SRF REVIEW

- Review Period:

The Idaho review was completed in FY 2010 using data from October 2007 – September 2008 (i.e., the federal fiscal year 2008).

- Key Dates: RCRA

EPA notified the State of Idaho in December 2009 that it was initiating a review of IDEQ's RCRA enforcement program. In that notification, Region 10 transmitted the Official Data Set that would be used in the review and provided the State with an opportunity to comment. A file review was conducted in Boise in April 12 and 13, 2010.

- Key Dates: CAA

EPA notified the State of Idaho on September 3, 2009, that it was initiating a review of IDEQ's CAA enforcement program. The September 3, 2009, letter transmitted the Official Data Set (ODS) that would be used in the review and provided the State with an opportunity to comment. IDEQ provided comments on the ODS on September 9, 2009. The file selection was sent to the state on October 7, 2009. A file review was conducted in the Boise office on October 20, 21, & 22, 2009. During an annual enforcement planning meeting on October 21, 2009, the preliminary data analysis was discussed. A DRAFT copy of the SRF report was provided to the state on August 6<sup>th</sup>, 2010, for their review. The state provided comments on the DRAFT report on September 13, 2010. A follow up conference call with the state was held on September 21, 2010.

- Communication with the State: RCRA

After the state was formally notified by EPA that it would conduct the SRF review in 2010 for federal fiscal year 2008, EPA and the State had several informal conversations regarding the scope of the review, information needs, and timing of the review. At the time of the file review, all necessary files had been pulled and were ready for review. The compliance program manager was readily available to discuss all inspections and enforcement actions that had occurred. Because the program manager was responsible for conducting all follow-up enforcement, he was able to address all questions that arose during the file review thus no discussions with staff occurred during the file review. A brief close out meeting was conducted with the program manager to discuss the initial findings. No significant issues were noted at that time.

- Communication with the State: CAA

On August 8, 2009, EPA and IDEQ held a kickoff discussion regarding the upcoming SRF review. The discussion was between EPA's air enforcement manager and IDEQ's air enforcement manager. During the file review, IDEQ's enforcement coordinator was available to answer any questions the reviewers had. At the end of the review, an exiting meeting was held with IDEQ's air enforcement program manager and the enforcement coordinator. Some preliminary file review findings were discussed.

- List state and regional lead contacts for review: RCRA

Cheryl Williams is Region 10's primary contact for the RCRA review and served as leader of the review team. Jeff KenKnight, manager of the Region 10 Air/RCRA Compliance Unit, is the Region's program manager with overall responsibility for the review. Ms. Williams was assisted by Barbara McCullough, Region 10 RCRAInfo data manager. The State's review team consisted of John Brueck, Mike Gregory, Natalie Clough, and Rene' Anderson.

- List state and regional lead contacts for review: CAA

Rindy Ramos is Region 10's primary contact for the CAA review and served as a leader of the review team. Jeff KenKnight, manager of the Region 10 Air/RCRA Compliance Unit, is the Region's program manager with overall responsibility for the review. Ms. Ramos was assisted by Mr. Paul Koprowski during the file review. Laurie Kral, Region 10's AFS data manger assisted Ms. Ramos during the data review and provided input during the file review. The State's review team consisted of Mike Simon, Steve Bacom, and Marilyn Seymore.

### **III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the first SRF review of Idaho's compliance and enforcement programs, Region 10 and Idaho identified a number of actions to be taken to address issues found during the review. All recommendations from Round 1 of the SRF have been completed. There are no outstanding recommendations. (Appendix A contains a comprehensive list of the completed actions). However, under the CAA program it is important to note that data inaccuracies are a re-occurring issue.

### **IV. FINDINGS AND RECOMMENDATIONS**

In one table, this section identifies: the Findings from the review of the data and file metrics; whether the issues identified are simply being brought to the state's attention or require corrective measures; the state's input on the finding and



recommendation; and, if corrective measures are required, the actions agreed upon between the region and state. 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:

<b>Finding</b>	<b>Description</b>
<b>Good Practices</b>	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
<b>Meets SRF Program Requirements</b>	This indicates that no issues were identified under this Element.
<b>Areas for State* Attention</b>  <b>*Or, EPA Region’s attention where program is directly implemented.</b>	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

<b>Areas for State * Improvement – Recommendations Required</b>  <b>*Or, EPA Region’s attention where program is directly implemented.</b>	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
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RCRA

Subtitle C Program Findings

Idaho State Review Framework – RCRA Round 2 – Federal Fiscal Year 2008

<b>RCRA Element 1 – Data Completeness</b>		
<b>Degree to which the Minimum Data Requirements are complete</b>		
<b>1.1</b>	<b>Finding</b>	The data in the national database is complete.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	Element 1 assesses the completeness of the data in the national data system (RCRAInfo) relating to the facility universe, number of inspections, number of enforcement actions, etc. In developing the PDA, IDEQ indicated to the review team that the OTIS data was complete. Based on the on-site review, this appears to be correct. The State maintains an accurate record of the number of facilities, inspections, and enforcement actions.
	Metric(s) and Quantitative Value	1a- Site universe counts complete 1b- Inspection counts complete 1c- Violation counts complete 1d- Informal action counts complete 1e- SNC counts complete 1f- Formal action counts complete 1g- Assessed penalties complete
	Action(s)	No further action necessary.
	State Response	No state response received.

<b>RCRA Element 2 – Data Accuracy</b>		
<b>Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc).</b>		
<b>2.1</b>	<b>Finding</b>	The majority of the data in the database accurately reflected the documentation in the files however, 2 inspections were coded in the database as CEIs that, based on the file reviews were not CEIs.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>SNC information in the files was accurately reflected.</p> <p>There were 2 instances of inspections that were coded as CEIs that were not a CEI. In one instance the company was no longer operating and in another instance the “inspection” was documented with a compliance assistance letter.</p>
	Metric(s) and Quantitative Value	<p>2a – Accuracy of SNC determination date data: 1 SNC determination (out of 15 facilities that were in SNC during the FY) was determined on the date of enforcement. 94% of the SNC determinations were made in advance of the enforcement action.</p> <p>2b-No Longstanding secondary violators not “returned to compliance” or redesignated as SNC</p> <p>2c- 89% (16/18) files reviewed coded the proper inspection type in RCRAInfo.</p>
	Action(s)	No further action necessary
	State Response	The state requested, and was provided, clarification of this finding.

<b>RCRA Element 3 – Timeliness of Data Entry</b>		
<b>Degree to which required data was entered into the national database in a timely manner.</b>		
<b>3.1</b>	<b>Finding</b>	Data appeared to be entered into the national database in a timely manner.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>Only minor changes were noted from the frozen data, generally resulting in the decrease in the universe because the frozen data reflected information outside the review period.</p> <p>There was only one instance where the State determined a facility to be a SNC on the day of the enforcement action.</p>
	Metric(s) and Quantitative Value	3a- Timely entry of SNC data – no SNC data was entered $\geq$ 60days after the SNC designation 3b- Comparison of frozen data set for Element 1 metrics.
	Action(s)	No Further Action necessary
	State Response	No state response received.

<b>RCRA Element 4 – Completion of Commitments</b>		
<b>Degree to which all enforcement/compliance commitments in relevant agreements (i.e. PPAs, PPGs, categorical grants, authorization agreements etc.) are met and any products or projects are completed.</b>		
<b>4.1</b>	<b>Finding</b>	Idaho completed scheduled inspections
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	At the beginning of Federal fiscal year Idaho planned 80 compliance inspections and approximately 60 additional site visits for technical assistance, used oil, etc. At the end of the year, Idaho had completed 90 compliance inspections.
	Metric(s) and Quantitative Value	Comparison of planned inspections and completed inspections.
	Action(s)	No further action necessary
	State Response	No state response received.

<b>RCRA Element 5 – Inspection Coverage</b>		
<b>Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state, and regional priorities).</b>		
<b>5.1</b>	<b>Finding</b>	Idaho met this goal for TSDFs and exceeded this goal for LQGs.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>The national goal for inspection coverage of operating TSDFs is 100% over 2 years. The national average is 88.2%. IDEQ inspected 100% of the operating TSDFs in the state over the 2 year period of time, meeting the national goal, and exceeding the national average.</p> <p>The national goal for inspection coverage of LQGs is 20% of the LQG universe each year. The national average is 23.7%. Idaho exceeded both the national goal and the national average by inspecting 33.3% of its LQG universe in 2007. However, the national goal for inspecting LQGs is 100% over 5 years. The data shows that Idaho inspected 79.2% of its LQG over 5 years – which is above the national average of 68% but below the national goal. Because Idaho is above the national average and met the 20% goal in 2007 it is likely that the failure to meet the 100% mark is due to a changing universe. None-the-less, Idaho should ensure that all LQGs are inspected over a 5 year period of time.</p> <p>The state inspected over 50% of its SQGs in 5 years. The data shows that over a 5 year period of time IDEQ inspected 60% of its regulated facilities (SQGs, LQGs, and TSDFs)</p>
	Metric(s) and Quantitative Value	5a- Inspection coverage for operating TSDFs (2 FYS) =100% (3/3) 5b- Inspection coverage for active LQGs (1FY)= 33.3% (8/24) 5c- Inspection coverage for active LQGs (5years)= 79.2% (19/24) 5d- Inspection coverage for active SQGs (5years) =52.9% (66/118) 5e1-Inspection coverage for active CESQGs (5 years)= 140 5e2- Inspection coverage for active transporters (5 years)=135 5e3- Inspection coverage for non-notifiers =2 5e4- Inspection coverage for facility not in above categories=14
	Action(s)	No further action necessary
	State Response	No state response received.

<b>RCRA Element 6 – Quality of inspection or Compliance Evaluation Reports</b>		
<b>Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.</b>		
<b>6.1</b>	<b>Finding</b>	Inspection reports completed in a timely manner , and provided sufficient documentation to make compliance determinations
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>The average timeframe for completing the inspection reports was 43 days. Though this timeframe is probably skewed due to one report that took 154 days to complete. Idaho completed 63% (7/11) of the reports reviewed in 30 days, 18%(2/11) of the reports reviewed between 31 and 60 days, and 18% (2/11) of the reports reviewed in greater than 60 days.</p> <p>Inspection reports contained enough information to make compliance determinations and support warning letters and VCO, however, more specificity in observations may be needed for more contentious respondents. For example, one inspection report states, “Various containers in the auto tech lab used to collect and store used oil were not marked with the words “Used Oil”. Including a description (size, color, type, etc) of the containers and the number of containers would make this count easier to support and argue the potential for harm in a case that goes to hearing.</p>
	Metric(s) and Quantitative Value	6a- 11 inspection reports reviewed. 6b- inspection reports reviewed provided sufficient documentation to make a compliance determination however, some documentation in the reports could be improved. <b>See finding 6.2</b> 6c. 90% (10/11) inspection reports were completed in less than 150 days.
	Action(s)	No further action necessary
	State Response	No state response received.
<b>6.2</b>	<b>Finding</b>	Some report elements consistently missing.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	The Regional reviewer found that inspection reports do not consistently state the type of inspection (CEI, FCI, NRR etc) or the reason for the inspection (random inspection, compliance

follow-up, state or national priority etc). However, the State does consistently state that the purpose of the inspection is to inspect for compliance with the hazardous waste regulations.

The State does not routinely document the telephone number of the facility in the inspection reports.

EPA recommends the following elements be included in the facility description: type of facility (manufacturing, service, municipality, federal facility, etc.) size in acres, normal hours and days of operation, and number of employees. These elements are rarely included in the State inspection reports.

The EPA reviewer noted that in some cases the original inspection report was not in the file and thus those inspection reports were not signed or dated, and often did not include all the attachments. This did not seem to be a systemic problem and the State manager stated he would ensure all inspectors understood that all original, signed inspection reports, including all attachments were required to be in the official state records.

Non-Financial Record Reviews: The Region expects that each type of inspection that is entered into RCRAInfo has a corresponding document in the file. Although EPA could usually piece together the parts of the file to ascertain what records were reviewed, a memo or report in the files documenting the record review findings would provide better transparency to the regulated community and the general public. Additionally, verbal warnings related to such record reviews should also have a corresponding record in the file indicating what was said by each party, how the verbal warning was given (by phone or in person, who gave the warning, person at the facility receiving the warning, and date & time of warning. All record views should be signed and dated prior to being placed in the file.

There was an instance of a CEI recorded in the database but the only document in the file consisted of a compliance assistance letter. Although the compliance assistance letter was helpful to the facility, it is not clear whether or not the inspector actually conducted a CEI or if the "inspection" was a compliance assistance visit. RCRAInfo should accurately reflect field activities.

There was an instance where a facility was no longer in business, the checklist documented that two other businesses now occupied that location but stated nothing about either business or whether the inspector actually conducted any type of

		inspection. This checklist-as prepared-did not reflect the required elements of a CEI.
	Metric(s) and Quantitative Value	
	Action(s)	No further action necessary, but EPA strongly suggest that the State review its policies regarding required documentation in inspection reports and required documentation necessary to reflect entries into the National database.
	State Response	No state response received.

<b>RCRA Element 7 – Identification of Alleged violations</b>		
<b>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).</b>		
<b>7.1</b>	<b>Finding</b>	Accurate compliance determinations are made and reported into the National database (RCRAInfo) in a timely manner.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	53.6% of the state inspections found violations.
	Metric(s) and Quantitative Value	<p>7a- Although not all files contained inspection reports (the 3 NRRs, the paint company compliance assistance visits, and the CEI at the closed business) based on all information available in the files it appears that the State made accurate compliance determinations for all facilities reviewed.</p> <p>7b. For the files reviewed, 100% of SNC and SV determinations were made within 150 days.</p> <p>7c- The database shows that 53.6% of the inspections the state conducted in 2008 resulted in the identification of violations.</p>
	Action(s)	No further action necessary
	State Response	No state response received.



<b>RCRA Element 8 – Identification of SNC</b>		
<b>Degree to which the State accurately identifies significant non-compliance violations and enters information into the national system in a timely manner.</b>		
<b>8.1</b>	<b>Finding</b>	The State regularly makes accurate SNC determinations prior to taking formal enforcement, and is identifying SNC at a greater rate than the National average, and generally makes SNC determinations in a timely manner.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>All facilities that were referred by the Regional offices for enforcement follow-up after an inspection (whether formal or informal) included a SNC checklist to determine whether facility violations warranted a SNC (yes) determination.</p> <p>The goal for SNC identification is ½ the National average. The national average for SNC identification is 3.5%. Idaho’s SNC identification rate in 2008 was 8.9% or 5 times ½ the national average.</p> <p>Idaho was above the national goal in making determinations prior to the formal enforcement action. The goal is ½ the national average or 29.35%. 53.3% of the time Idaho made a SNC determination prior to issuing the formal enforcement action.</p> <p>Idaho is below the national goal and the national average for making SNC determination within 150 day. However, upon closer review this does not appear to be a significant problem it represents only 1 facility out of 4. When reviewing files, it was clear the Idaho’s general practice results almost all facilities have either a SNC or a SV determination made well before the 150 days.</p>
	Metric(s) and Quantitative Value	8a- 8.9% SNC identification rate 8b- 75% (3/4) SNC determinations made within 150 days 8c- Information in the database showed that 53.3% of Idaho’s enforcement actions received a SNC determination prior to the enforcement action being taken. The goal is ½ the national average of 58.7%
	Action(s)	No further action necessary
	State Response	No state response received.

<b>RCRA Element 9 – Enforcement Actions Promote Return to Compliance</b>		
<b>Degree to which the 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).</b>		
<b>9.1</b>	<b>Finding</b>	The State’s files documented that the facilities with violations returned to compliance
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	Of the 13 files reviewed where either a warning letter (informal action) or a Voluntary Compliance Order (formal action) were issued, all facilities returned to compliance. Additionally, though not fully documented in the files, the three verbal warnings for failure to submit an annual report also resulted in the facilities submitting the required report and returning to compliance
	Metric(s) and Quantitative Value	9b & 9c-100% (13/13) of enforcement actions that have returned or will return a facility in SNC or SV to compliance
	Action(s)	No Further Action Necessary
	State Response	No state response received.

<b>RCRA Element 10 – Timely and Appropriate Action</b>		
<b>Degree to which the State takes timely and appropriate enforcement actions in accordance with policy related to specific media.</b>		
<b>10.1</b>	<b>Finding</b>	State took timely and appropriate actions to address violations.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	
	Metric(s) and Quantitative Value	10a- 80% of SNC with formal action taken within 360 days. The national average is 37.2% and the national goal is 80%. Idaho met the national goal. 10c- 100% (13/13) of enforcement actions were timely. SV and SNC violations were addressed in a timely manner; additionally, 3/3 (100%) of the files that documented failure to submit a biennial report were addressed with a verbal warning within appropriate timeframes. 10d- % of appropriate enforcement actions- 100% (13/13 or 16/16) files indicated that violations were addressed with the

		appropriate enforcement action.
	Action(s)	No further action necessary
	State Response	No state response received.

<b>RCRA Element 11 – Penalty Calculation Method</b>		
<b>Degree to which the state documents in its files that initial penalty calculation includes both the gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy</b>		
<b>11.1</b>	<b>Finding</b>	The State usually calculated both gravity and economic benefit in its enforcement files.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	Although one penalty calculation worksheet states no EB was calculated, it appears to EPA that EB should not have been assessed in this instance as no EB would have been realized. Idaho should consider more clearly explaining why no EB is assessed when this is the case.
	Metric(s) and Quantitative Value	11a- 100% (6/6) of reviewed penalties included EB where appropriate.
	Action(s)	No further action necessary
	State Response	No state response received.

<b>RCRA Element 12 – Final Penalty Assessment</b>		
<b>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.</b>		
<b>12.1</b>	<b>Finding</b>	The State documents the differences between initial and final penalties and collection of penalties.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	Of the 6 facilities that had initial penalties assessed, only 3 facilities had a final penalty assessed. For the 3 cases that had no final penalty assessed 2 files included documentation of an inability to pay a penalty. In the third instance, there was no documentation in the file regarding no final penalty but EPA assumes this was an ability to pay issue because the facility was a non profit (church) none-the-less such information should be noted in the facility file. For the remaining 3 facilities the file included a new penalty calculation sheet that explained the difference in assessed and final penalty.
	Metric(s) and Quantitative Value	12a- 83% (5/6) penalties reviewed documented the difference between the assessed penalty and the final penalty. 12b-100% (3/3) of the final assessed penalties were documented in the file as collected.
	Action(s)	No further action necessary
	State Response	No state response received.

<b>CAA Element 1 – Data Completeness</b>		
<b>Degree to which the Minimum Data Requirements are complete</b>		
<b>1.1</b>	<b>Finding</b>	Idaho’s data in the national database is incomplete.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>20 of the 21 metrics (95.2%) for which Idaho enters MDRs into AFS were complete. Idaho does not enter HPV MDRs into AFS: HPV activities are reported to EPA Region 10 for entry into AFS.</p> <p>As discussed in Element 2, there were several discrepancies concerning HPV MDRs between information in the files and AFS.</p> <p>IDEQ has 3 NESHAP sources flagged in AFS; however, IDEQ did not have the applicable NESHAPs flagged, which is an MDR. This metric has been corrected.</p> <p>The Idaho Department of Environmental Quality’s Air Quality Division currently employs a statewide reporting database called AIMS (Air Information Management System). Basic information for a source (e.g., name, address, air program code applicability and subparts) is entered by the State permit writers into AIMS. Inspection and Enforcement actions are routed to Idaho’s AFS data manager who enters the reported activity manually into AFS. The AIMS does not currently accept inspection and enforcement activities; however, IDEQ has plans to develop and implement these capabilities in the future.</p>
	Metric(s) and Quantitative Value	Data Review: Element 1 metrics
	Action(s)	See recommendations and action under Element 2.
	State Response	See IDEQ’s responses under ‘Element 2’.

<b>CAA Element 2 – Data Accuracy</b>		
Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct,, etc)		
<b>2.1</b>	<b>Finding</b>	Eight of 16 files reviewed (50.0%) had MDRs accurately entered into AFS. The data in the 8 files matched the AFS data.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>EPA enters all HPV related activities into AFS. During FFY08, HPV conference calls were held on 10/4/07, 12/6/07, 2/14/08, 4/8/08, and 8/21/08 at 1:00 pm PST.</p> <p>Eight files contained discrepancies concerning HPV or enforcement activities. Discrepancies observed include; 1) IDEQ’s interpretation of EPA’s HPV policy concerning PM process weight rate and PM NSPS emission violations resulting in HPVs not being reported to EPA (Files F1, F3 &amp; F10), 2) IDEQ internal miscommunications concerning HPVs (File F2, F8, F13), 3) IDEQ’s failure to report a HPV to EPA for entry into AFS (File F12 &amp; F16), and 4) EPA’s failure to timely entry HPV data into AFS when provided by IDEQ (File F7 &amp; F16).</p> <p>NOTE: Region 10 has corrected the data in AFS for files F2, F7, F8, F13, and F16.</p>
	Metric(s) and Quantitative Value	Data Element #2 File Review Metric 2c.
	Action(s)	<ol style="list-style-type: none"> <li>1) Within 30 days of finalization of this report IDEQ and EPA shall start monthly HPV communications. HPV calls shall be held bimonthly and IDEQ shall provide an update of HPV activity to the region during the months in which formal calls are not held.</li> <li>2) Within 90 days of finalization of this report, EPA shall provide written clarification of its HPV policy as it applies to major PM sources that violate the State’s process weight rate emission limits and PM NSPS limits.</li> <li>3) Within 30 days of the HPV policy applicability determination related to PM sources, EPA shall schedule HPV training for IDEQ staff.</li> <li>4) Within 30 days of HPV policy training, IDEQ shall starting entering HPV related activities into AFS.</li> </ol>

	State Response	<p>IDEQ reviewed the aforementioned files in order to clarify and further understand EPA’s comments noted above. Upon reviewing these files, and in some cases recreating EPA’s analysis because of uncertainty created by EPA’s comments, IDEQ determined that the alleged discrepancies occurred for one or more of the following reasons:</p> <ol style="list-style-type: none"> <li>1. File F1- IDEQ determined the performance test failure dated 03/03/2006 violated IDEQ’s particulate matter (PM) process weight rate emissions limit. IDEQ disagrees with EPA’s assessment that a state regulated PM process weight rate emissions limit is an applicable pollutant under EPA’s HPV policy. Section II.A of EPA’s Timely and Appropriate Enforcement Response to High Priority Violations sets forth the criteria that triggers an HPV status. <i>“The criteria apply to the pollutant(s) of concern at major sources, (i.e., pollutant for which source is major) except where the criterion itself indicates otherwise (e.g., applies to a synthetic minor source).”</i> Section 2.1.1 of EPA’s Timely and Appropriate (T&amp;A) Enforcement Response to High Priority Violations (HPVs) Workbook further interprets the applicability of the HPV policy. <i>“The General HPV Criteria and the HPV Matrix Criteria are not meant to overlap. However, there is overlap in one area. General HPV Criterion 8 covers violations of emission limits during stack test, which would also be captured by HPV Matrix Criterion 1.”</i> Section 4.1.1 of EPA’s Timely and Appropriate (T&amp;A) Enforcement Response to High Priority Violations (HPVs) Workbook states that, <i>“The HPV Policy will only apply if the source is a major source and the pollutant at issue is one for which the source is considered major. If the source is not a major source or is not a major source for the pollutant in question, the violation is not an HPV based on Matrix Criterion 1.”</i> The ‘violation’ at issue is a state regulated process weight rate emissions limit. Although the violation occurred at a major source, the pollutant of concern is PM. Since PM is not a major source classifiable pollutant for Title V, Part 70 purposes, regardless of whether Section 3.9.2 of EPA’s Timely and Appropriate (T&amp;A) Enforcement Response to High Priority Violations (HPVs) is silent on which source test failures are subject to the HPV Policy, Section II.A of EPA’s Timely and Appropriate Enforcement Response to High Priority Violations, and Sections 2.1.1 and 4.1.1 of</li> </ol>
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EPA's Timely and Appropriate (T&A) Enforcement Response to High Priority Violations (HPVs) Workbook further interprets the applicability of the HPV policy prevail. Therefore, IDEQ contends now, as it has in the past, that the aforementioned violation was not an HPV, was not required to be reported to EPA as an HPV, and should not negatively impact IDEQ's performance with regard to this and other applicable Elements under the SRF.

2. File F2 - An internal miscommunication issue prevented IDEQ from pursuing an appropriate enforcement action to resolve this apparent violation.

3. File F3 and F12 - IDEQ determined the following:

a. The performance test failure, referenced in File F3, violated an NSPS PM emissions limit. At the time of this violation, IDEQ was operating under the belief that a violation of a PM emissions limit, regardless of whether the PM limit appeared in an NSPS, did not meet the intent and criteria of an HPV. In fact, IDEQ discussed this violation with EPA during an 11/13/2008 HPV call, and EPA agreed with IDEQ's assumption. It was not until late 2009, early 2010 that EPA clarified the HPV policy and explained to IDEQ that violations of an NSPS pollutant, regardless of whether the pollutant is a major source classifiable pollutant, are subject to the HPV policy. While DEQ agrees that it may be appropriate to address certain NSPS violations as HPVs, IDEQ disagrees with EPA's assessment that a PM emissions limit is an applicable pollutant under EPA's HPV policy. Section II.A of EPA's Timely and Appropriate Enforcement Response to High Priority Violations sets forth the criteria that triggers an HPV status. (See detailed explanation above.) IDEQ contends now, as it has in the past, that the aforementioned violation was not an HPV, was not required to be reported to EPA as an HPV, and should not negatively impact IDEQ's performance with regard to this and other applicable Elements under the SRF.

b. File F12 - IDEQ agrees that under normal circumstances this case would be reported as an



HPV; however, this particular case was compounded by the need to obtain an applicable permit and the facility's decision to cease all operations at this facility.

The resolving action, in this particular case, would be for the facility to obtain an applicable permit. IDEQ did enter into a compliance schedule with the subject facility on October 17, 2007, which required the facility to obtain an applicable permit. While developing this compliance schedule, the facility notified IDEQ that they ceased most of their operations, rendered their equipment inoperable, and begun dismantling and removing their equipment.

Despite the impending facility closure, on February 25, 2008, IDEQ received an air quality permit application. On April 22, 2008, IDEQ received correspondence from the facility stating that the facility would cease all operations by May 31, 2008, and outlining the closure schedule.

In light of the facility's closure activities, IDEQ believed that it was inappropriate and unreasonable to identify, address, and track this violation as an HPV.

4. File F8 - IDEQ reviewed the relevant facility files and determined that although IDEQ considered pursuing an enforcement action against this facility in early 2004, an NOV was never issued as EPA suggests. IDEQ later terminated this enforcement action because significant evidentiary issues that “[a]ffect [IDEQ’s] ability to continue to enforce against this facility”. Furthermore, it appears that an isolated internal miscommunication prevented IDEQ from updating the facility’s compliance status from “out of compliance” to “in compliance” following the termination of this enforcement action.
5. File F10 - The performance test failures, referenced in File F10, violated IDEQ’s particulate matter (PM) process weight rate emissions limit. IDEQ disagrees with EPA’s assessment that a state regulated PM process weight rate emissions limit is an applicable pollutant under EPA’s HPV policy. Section II.A of EPA’s Timely and Appropriate Enforcement Response to High Priority

Violations sets forth the criteria that triggers an HPV status. See detailed response to File F1 above. IDEQ contends now, as in the past, that the aforementioned violation was not an HPV, was not required to be reported to EPA as an HPV, and should not negatively impact IDEQ's performance with regard to this and other applicable Elements under the SRF.

6. File F13 - This particular enforcement action did not result in the issuance of a Consent Order. The applicable requirements were incorporated into the facility's Tier I Operating Permit, issued on 11/06/2002, as a compliance schedule. An internal miscommunication prevented IDEQ from properly tracking the facility's progress with the compliance schedule. Ultimately, the compliance schedule was resolved through the issuance of two separate permits on 05/08/2007 and 01/16/2008.
7. File F16 - IDEQ documentation reveals that it was EPA who originally notified IDEQ, during a September 2007 RCRA inspection, of the potential asbestos issues at the subject facility. Upon consulting with IDEQ's RCRA Program, it appears that EPA had known of the potential asbestos issues for quite some time 'since EPA's inspector(s) were equipped and prepared to collect samples of suspected asbestos containing materials'. IDEQ's Air Quality Enforcement Program was subsequently notified of this issue in October 2007.

In November 2007, IDEQ assembled an inspection team, which included an EPA asbestos inspector, to investigate any potential asbestos issues/violations at the subject facility. On April 4, 2008, IDEQ received EPA's final inspection report, dated April 1, 2008. It is important to note that EPA's inspection report does not indicate whether the facility specifically violated the 40 CFR Part 61; therefore, IDEQ met with EPA on April 8, 2008, April 22, 2008, and April 30, 2008, to discuss EPA's inspection report, noted conclusions, and EPA's recommendations for obtaining additional information in order to support and pursue a formal enforcement action.

IDEQ prepared and issued an Information Request, for additional information, on June 10, 2008. IDEQ received the facility's response to the Information Request on August 2, 2008. On September 22, 2008, IDEQ finalized

its review of the facility's response, determined there was sufficient information to confirm the presence of multiple asbestos violations, and initiated an appropriate enforcement action in order to address and resolve these HPVs.

EPA indicated that the 'day zero' was April 1, 2008 (the date of EPA's inspection report); however, IDEQ did not actually have sufficient information to confirm the presence of a federally enforceable violation until September 22, 2008 (the date that IDEQ completed its review of the facility's Information Order response).

Furthermore, IDEQ and EPA met periodically before, during, and after the investigative portion of this case. IDEQ initially notified EPA of its decision to pursue an enforcement action during the November 13, 2008 HPV call, which was the first HPV call following IDEQ's decision to pursue enforcement on September 22, 2008.

State Recommended Corrective Actions:

1. Within 90 days of finalizing this report, IDEQ requests that EPA prepare and submit to IDEQ written clarification concerning whether non-major pollutants (e.g., state regulated PM process weight rate emissions limit, etc.) are applicable to the HPV policy. If EPA's clarification does indicate that non-major pollutants are applicable to the HPV Policy, then EPA will provide IDEQ with a detailed explanation why it does.
2. Within 120 days of finalizing this report, IDEQ requests that EPA schedule training for IDEQ's Air Quality compliance inspectors, enforcement analysts, etc., on EPA's HPV policy, which includes relevant case studies and EPA's new HPV policy guidance and interpretations.
3. In order to correct the 'deficiency' identified by the review of File F2, IDEQ has already begun developing and implementing a new process whereby enforcement staff is promptly notified of any potential source test related failure/violation.
4. Through ongoing process improvement efforts in both the permitting and enforcement programs, IDEQ has already identified and addressed the 'deficiency' identified by the

		review of File F13.
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<b>CAA Element 3 – Timeliness of Data Entry</b>		
<b>Degree in which the Minimum Data Requirements are timely.</b>		
<b>3.1</b>	<b>Finding</b>	Data entry for which Idaho is responsible (Non-HPV data), appeared to be entered into the national database in a timely manner. However, the reporting of HPV activities to Region 10 for their entry into AFS and entry of HPV activities into AFS has not always been timely.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>The National Goal for the Percent Compliance Monitoring related RD actions reported &lt;=60 days after designation is 100%. The National Average is 58.9%. Idaho's data entry percentage is 83.4% which is well above the National Average.</p> <p>The National Goal for the Percentage Enforcement related MDR actions reported &lt;=60 days after designation is 100%. The National Average is 70.0%. Idaho's data entry percentage is 81.2%. This is above the National Average.</p> <p>However, as discussed in Element 1 &amp; 2, HPV MDRs are not always being timely entered into AFS.</p>
	Metric(s) and Quantitative Value	<p>Data Metric A03A0S – No new HPVs were entered in FFY08.</p> <p>Data Metric A03B1S – National Goal 100%, National Average 58.9%, Idaho 83.4%.</p> <p>Data Metric A03B2S – National Goal 100%, National Average 70.0%, Idaho 81.2%.</p>
	Action(s)	Idaho is above the National Average for metrics A03B1S & A03B2S. Corrective actions for Elements 1&2 will also address concerns for this element. No Further Action is necessary for this element.
	State Response	<p>As noted in IDEQ's responses under 'Element 2', on numerous occasions, IDEQ notified EPA of ongoing HPV enforcement activities and EPA failed to enter this information into AFS. See IDEQ's responses under 'Element 2'.</p> <p><u>State Responses to EPA's Recommended Actions:</u></p> <ol style="list-style-type: none"> <li>1. IDEQ agrees that the corrective actions referenced under 'Element 1' and 'Element 2' will also address EPA's 'concerns' regarding this Element.</li> </ol>

<b>CAA Element 4 – Completion of Commitments</b>		
<b>Degree to which all enforcement/compliance commitments in relevant agreements (i.e. PPAs, PPGs, categorical grants, authorization agreements etc.) are met and any products or projects are completed.</b>		
<b>4.1</b>	<b>Finding</b>	Idaho completed the majority of inspections according to its traditional CMS plan and all of its commitments in its EPA/Idaho Work Plan.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p><u>Traditional CMS plan</u></p> <p>Idaho committed to conduct FCEs at all of its CMS major sources for the CMS cycle 07/08. They conducted 26 of 27 FCEs in FFY07 and 23 of 24 in FFF08 for an overall completion percentage of 98.0%.</p> <p>Idaho committed to conduct FCEs at all of its 64 SM80 sources during the SM80 CMS cycle (FFY07 to FFY11). They had committed to conduct 13 FCEs in FFY07 &amp; 13 in FFY08 for a total of 26. At the end of FFY08, they had conducted 22 out of a total of 64 for the five year CMS cycle (34.4%) and were behind schedule.</p> <p><u>Work Plan Commitments</u></p> <ol style="list-style-type: none"> <li>1. Conduct permit handoff meetings to ensure facility personnel responsible for compliance, and IDEQ staff, know and understand permit requirements – ongoing activity.</li> <li>2. Implement compliance evaluations pursuant to the CMS work plan submitted to EPA – see discussion above.</li> <li>3. Provide a semi-annual report to Region 10 by July 30, 2008, of permit-related compliance issues found during initial Title V permit reviews – report submitted.</li> <li>4. Provide a summary report to Region 10 of all referred enforcement cases, activities and enforcement schedules, once every other month – reports were submitted.</li> <li>5. Conduct HPV calls with Region 10 bimonthly with an option to hold an “issues” call on alternate months if requested by EPA or the State – calls were held.</li> <li>6. Refer cases for enforcement within 30 days of discovery for new cases – no later than 75 days if additional information is required – Idaho did not refer any new cases during FFY08. For further information see the discussion under Elements 3 &amp; 8.</li> </ol>

		Since this metric relates to the five-year SM80 CMS cycle, IDEQ still has three years to meet its commitment.
Metric(s) and Quantitative Value		Data Metric A05A1S: National Goal – 100%, National Average – 60.2%, Idaho – 98.0%. Data Metric A05B1S: National Goal – 100%, National Average – 70.2%, Idaho – 34.4%. Data Metric A05G0S – Review of Self-Certifications Completed: National Goal 100%, National Average – 93.2%, Idaho - 90.0% File Review Metric 4a & 4b.
Action(s)		No further action necessary but EPA recommends that IDEQ and EPA discuss how IDEQ will fulfill the SM80 commitment and make adjustments to their CMS plan if necessary.
State Response		<p>IDEQ believes EPA’s data metrics are misleading and may unintentionally misinform persons who are not regularly involved in this process.</p> <p>Data Metric A05B1S is a multi-year metric spanning five federal fiscal years (FFY07 - FFY11). IDEQ commits annually to inspecting and performing FCEs at 1/5<sup>th</sup> (20%) of Idaho’s total SM80s. As EPA mentions above, IDEQ committed to performing 26 out of the 64 SM80 FCEs (approximately 40%). EPA’s National Goal is 100%; however, this is over the entire five years. Therefore, for FFY07 and FFY08 (the focus of EPA’s review) IDEQ’s target is 40% (20% in FF07 and 20% in FFY08), not 100%. IDEQ completed 22 of the 26 SM80 FCEs (approximately 34.4% of Idaho’s total SM80s).</p> <p>Furthermore, see IDEQ’s comments for ‘Element 5’.</p> <p><u>State Responses to EPA’s Recommended Actions:</u></p> <ol style="list-style-type: none"> <li>1. IDEQ is agreeable to discussing its current process and procedures with EPA.</li> </ol>

<b>CAA Element 5 – Inspection Coverage</b>		
<b>Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state, and regional priorities).</b>		
<b>5.1</b>	<b>Finding</b>	Idaho completed the majority of inspections according to its traditional CMS plan.
	Is this	<input type="checkbox"/> Good Practice

finding a(n):	<input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement (Recommendation Required)
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Explanation	<p><u>Traditional CMS plan</u>  Idaho committed to conduct FCEs at all of its CMS major sources for the CMS cycle 07/08. They conducted 26 of 27 FCEs in FFY07 and 23 of 24 in FFF08 for an overall completion percentage of 98.0%.</p> <p>This is below the National Goal but above the National Average of 60.2%.</p> <p>Idaho committed to conduct FCEs at all of its 64 SM80 sources during the SM80 CMS cycle (FFY07 to FFY11). They had committed to conduct 13 FCEs in FFY07 &amp; 13 in FFY08 for a total of 26. At the end of FFY08, they had conducted 22 out of a total of 64 for the five year CMS cycle (34.4%) and were behind schedule.</p> <p>One problem Idaho encounters is the fact that many of its SM80 sources are portable facilities (i.e. asphalt plants) that travel throughout the state, on and off of Indian reservations, and sometimes across state lines. This hinders Idaho's ability to conduct inspections.</p> <p>In response to IDEQ's comment provided below, EPA and IDEQ have discussed this matter (September 21, 2010). EPA has provided IDEQ with guidance on how to enter compliance activities into AFS related to portable sources.</p> <p>Since this metric relates to the five-year SM80 CMS cycle, at the time of this review, IDEQ still had three years to meet its commitment.</p>
Metric(s) and Quantitative Value	<p>Data Metric A05A1S: National Goal – 100%, National Average – 60.2%, Idaho – 98.0%.</p> <p>Data Metric A05B1S: National Goal – 100%, National Average – 70.2%, Idaho – 34.4%.</p> <p>Data Metric AO5GOS: National Goal – 100%, National Average – 93.2%, Idaho – 90.0%.</p>
Action(s)	No further action necessary.
State Response	<p>IDEQ recognizes the importance of meeting ongoing and periodic commitments, as well as maintaining a regulatory presence at permitted facilities. As EPA mentions above, IDEQ regularly encounters portable SM80 facilities that travel in and</p>



out of the state, or reside and operate almost entirely outside of the state. For those facilities that regularly travel throughout the state, IDEQ has developed a system whereby the six Regional Offices coordinate with each other to ensure these inspections and FCEs are completed.

As EPA points out in its ‘explanation’ above, IDEQ continues to have problems conducting inspections and FCEs at facilities that reside and operate almost entirely outside of Idaho. EPA still expects IDEQ to meet its CMS commitments; however, IDEQ cannot conduct an onsite inspection of these facilities and therefore must rely on a records review for inspection and FCE purposes. In a number of instances, including the ‘explanation’ for Element 6 below, EPA has indicated that this is not an appropriate method for completing FCEs.

In ‘Element 6’ below, EPA states that the August 22, 2007 inspection should have been classified as a PCE because the plant operated in another state during 2007, records were not available for review, and the plant was not physically inspected. IDEQ’s CMS commitment identifies each applicable facility, and the year in which an FCE will be conducted. Even if IDEQ performs an FCE at another facility to make up for the missed FCE, IDEQ could still receive a negative rating for not specifically meeting CMS commitments. This is an ongoing issue and concern of IDEQ’s, for which EPA has not provided adequate guidance to assist the states.

Furthermore, see IDEQ’s comments for ‘Element 4’.

State Recommended Corrective Actions:

1. Within 30 days of finalizing this report, IDEQ requests that EPA prepare and submit to IDEQ guidance on how IDEQ can inspect facilities/perform FCEs at portable facilities that travel in and out of the state on a regular basis, or operate almost entirely outside of the state, and still meet their CMS commitments.
2. IDEQ has already discussed, and is currently contemplating, a future kaizen event to address compliance related activities.

<b>CAA Element 6 – Quality of inspection or Compliance Evaluation Reports</b>		
<b>Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.</b>		
<b>6.1</b>	<b>Finding</b>	Inspection reports completed in a timely manner, and provided sufficient documentation to make compliance determinations
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>Seven FCE files were reviewed. Of those seven, 6 (86.0%) contained documentation sufficient to determine that the FCE had been conducted in accordance with EPA’s Compliance Monitoring Strategy (CMS) policy. One file, File #8 did not. AFS indicates that an onsite FCE was conducted on 11/29/07 which is in agreement with the FCE Evaluation worksheet found in the file. However, the inspection report for an inspection commencing on August 22, 2007, indicates that the plant had been operating in another state during the 2007 paving season and all required records were kept at that plant. Since the records were not available for review and the plant was not physically inspected, the evaluation should have been classified as a PCE because it does not meet the requirements of section V of EPA’s CMS policy.</p> <p>This is an example of the problem discussed in Element 5 regarding the difficulty Idaho encounters in inspecting its SM80 universe.</p>
	Metric(s) and Quantitative Value	File review metric 6a – 7 files File review metric 6b – 6 files (86%) File review metric 6c – 6 files (86%)
	Action(s)	No further action necessary
	State Response	EPA states that the August 22, 2007 inspection should have been classified as a PCE because the plant operated in another state during 2007, records were not available for review, and the plant was not physically inspected. IDEQ’s CMS commitment identifies each applicable facility, and the year in which an FCE will be conducted. Even if IDEQ performs an FCE at another facility to make up for the missed FCE, IDEQ could still receive a negative rating for not meeting CMS commitments. This is an ongoing issue and concern of IDEQ’s, for which EPA has not provided adequate guidance to assist the states.

		<p>Furthermore, see IDEQ’s comments for ‘Element 5’.</p> <p><u>State Recommended Corrective Actions:</u></p> <p>1. Although EPA has not recommended a specific corrective action, IDEQ requests that EPA prepare and submit to IDEQ written guidance on how IDEQ can inspect facilities/perform FCEs at portable sources that travel in and out of the state on a regular basis, or operate almost entirely outside of the state, and still meeting CMS commitments.</p>
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<b>CAA Element 7 – Identification of Alleged violations</b>		
<b>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).</b>		
<b>7.1</b>	<b>Finding</b>	Compliance determinations are accurately made and promptly reported in AFS.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>Eleven of 11 (100%) CMRs reviewed lead to an accurate compliance determination and met the requirements delineated in Section IX of EPA’s 2001 CMS policy. All CMRs contained general facility information, inventory and description of regulated emission units and processes, applicable requirements, description of compliance monitoring activities, compliance/enforcement history and observations and supporting documentation (stack test results, CEM report reviews) where appropriate.</p> <p>Additionally, compliance monitoring activities were promptly reported in AFS.</p>
	Metric(s) and Quantitative Value	<p>File Review metric 7a: 100%</p> <p>Data Metric A03B1S: National goal - 100%, National Average – 58.9%, Idaho – 83.4%</p> <p>Data Metric A03B2S: National Goal – 100%, National Average 70.0%, Idaho – 81.2%</p>
	Action(s)	No further action necessary
	State Response	IDEQ has no comments.



<b>CAA Element 8 – Identification of HPVs</b>		
<b>Degree to which the State accurately identifies significant non-compliance violations and enters information into the national system in a timely manner.</b>		
<b>8.1</b>	<b>Finding</b>	The majority of the time the state accurately identifies significant non-compliance violations
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>Six of the seven files (86%) reviewed were accurately determined to be Non-HPVs. One file contained an unreported HPV violation.</p> <p>File F10 indicated that a FCE was conducted on 9/23/08 and stack test failures were entered into AFS on 11/2/07, 12/21/07, and 9/25/08. The state issued a NOV on 3/3/08 and a Consent Decree on 11/17/08 however this HPV was not reported to EPA during their bi-monthly HPV call therefore HPV related activities were not entered into AFS.</p> <p>In addition, Idaho’s metric values for: High Priority Violation Discovery Rate – Per Major Source (1 FY), the High Priority Violation Discovery Rate – Per Synthetic Minor Source (1 FY), and the Percent Formal Actions With Prior HPV – Majors (1 FY) are all below the national average.</p> <p>It is important to note that during the review period, one source that was not part of the file review, incurred HPV violations. However, this source was currently being treated as a HPV and the two violations encountered during FFY2008 were included in the existing enforcement action. Grouping together of like violations is consistent with EPA’s HPV policy.</p>
	Metric(s) and Quantitative Value	File Review metric 8f Data Metric A08A0S Data Metric A08B0S Data Metric A08C0S
	Action(s)	See actions discussed below
<b>8.2</b>	<b>Finding</b>	HPV activities are not being timely reported in AFS
	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention

		X Area for State Improvement (Recommendation Required)
Explanation	EPA enters all HPV related activities into AFS. As discussed in Element 2 above, several discrepancies exist between the files that were reviewed and AFS. HPV enforcement activities are not being reported to EPA in a timely manner for entry into AFS. There appears to be a lack of sufficient communication between the region and IDEQ.	
Metric(s) and Quantitative Value	File Review 2c	
Action(s)	<p>1) Within 30 days of finalization of this report IDEQ and EPA shall start monthly HPV communications. HPV calls shall be held bimonthly and IDEQ shall provide an update of HPV activity to the region during the months in which formal calls are not held.</p> <p>2) Within 90 days of finalization of this report, EPA shall provide written clarification of its HPV policy as it applies to major PM sources that violate the State’s process weight rate emission limits and PM NSPS limits.</p> <p>3) Within 30 days of the HPV policy applicability determination, EPA shall schedule HPV training for IDEQ staff.</p> <p>4) Within 30 days of HPV policy training, IDEQ shall start entering HPV related activities into AFS.</p>	
State Response	<p>See IDEQ’s responses under ‘Element 2’ and ‘Element 3’. For ‘Element 8.1’, see IDEQ’s responses pertaining to File F10 under ‘Element 2’.</p> <p>IDEQ disagrees with EPA’s comments concerning ‘Element 8.1’. Based on IDEQ’s responses noted above, the rating should be changed to ‘Meets SRF Program Requirements’.</p> <p><u>State Responses to EPA’s Recommended Actions:</u></p> <p>1. IDEQ believes that the corrective actions referenced under ‘Element 2’ will also address EPA’s ‘concerns’ regarding this Element.</p>	

<b>CAA Element 9 – Enforcement Actions Promote Return to Compliance</b>		
<b>Degree to which the 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).</b>		
<b>9.1</b>	<b>Finding</b>	IDEQ requires corrective action to return facilities to

		compliance in a specified time frame.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	Four files reviewed contained formal enforcement actions. If the source had not already returned to compliance, the corrective action taken was designed to return the facilities to compliance in a specified time frame.
	Metric(s) and Quantitative Value	File Review Metric 9a: 4 files File Review Metric 9b: 100%
	Action(s)	No Further Action Necessary
	State Response	No response received.

<b>CAA Element 10 – Timely and Appropriate Action</b>		
<b>Degree to which the State takes timely and appropriate enforcement actions in accordance with policy related to specific media.</b>		
<b>10.1</b>	<b>Finding</b>	The State generally takes timely actions to address identified high priority violations and their actions are appropriate.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>During the review period, no new HPVs were entered into AFS. Data in the SRF data base reflects HPV activity for the prior 2 fiscal years. The National Average for the Percent HPVs meeting timeliness goals is 37.5%. IDEQ's average is 50.0%, which is above the National Average.</p> <p>IDEQ lacks unilateral administrative penalty authority and administrative compliance order authority. They cannot compel a source to return to compliance or assess penalties. However, the state does have the authority to negotiate compliance schedules, penalties and sign negotiated compliance orders and consent decrees. Should the state and source not reach agreement on an enforcement action, IDEQ then forwards the violation(s) to the AG's office for the AG to initiate a court action.</p> <p>Recommendations for an enforcement response to violations are</p>

		<p>usually made by sending an enforcement referral from the Regional Office to the State Air Quality Division. The referral is prepared by a regional inspector and routed through the regional administrator. A team is then assembled for determining the appropriate enforcement response and preparing any subsequent NOV and/or Consent Order. The team usually consists of one representative from the State Program Office, the Regional Office, Technical Services, and the Office of the Attorney General. This process, although an effective one, tends to be lengthy. In many cases, corrective action(s) are implemented by the source prior to issuance of a NOV or Consent Order.</p> <p>Two HPV formal enforcement actions reviewed during the file review were determined to be appropriate.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>Review Indicator Data Metric A10A0S: National Average – 37.5%, IDEQ - 50.0%</p> <p>File Review Metric 10b</p> <p>File Review Metric 10c</p>
	<p>Action(s)</p>	<p>None required. IDEQ is above the National Average.</p>
	<p>State Response</p>	<p>In December 2008, IDEQ’s Air Quality Enforcement Program underwent a process improvement and streamlining (Kaizen) event to address and resolve the timeliness and effectiveness of the Air Quality Enforcement Program. Furthermore, the enforcement coordinator regularly provides, and will continue to provide, in-service training to the inspectors in order to continuously improve the enforcement process, and more specifically enforcement timelines. Therefore, IDEQ does not believe follow actions are required to resolve these issues.</p> <p><u>State Responses to EPA’s Recommended Actions:</u></p> <ol style="list-style-type: none"> <li>1. Based on the aforementioned comments and a follow up discussion with EPA on September 2, 2010, IDEQ does not believe that additional follow up actions are necessary to resolve EPA’s concerns; and believes the rating should be changes to ‘Meets SRF Program Requirements’.</li> </ol>



<b>CAA Element 11 – Penalty Calculation Method</b>		
<b>Degree to which the state documents in its files that initial penalty calculation includes both the gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy</b>		
<b>11.1</b>	<b>Finding</b>	The State regularly calculates both the gravity and economic benefit for its formal enforcement actions.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>Three penalty calculations, prepared during FFY2008, were reviewed during the file review. All three files included penalty calculation documentation.</p> <p>The state follows its Air Quality Administrative Penalty Policy (December 31, 1999) in assessing penalties.</p> <p>File F3 included a Penalty Worksheet (worksheet dated 12/13/07) for a source test violation with gravity being assessed as a single day violation. Gravity was assessed according to IDEQ’s Penalty Assessment Matrix. Economic benefit (EB) was considered but not assessed. IDEQ was unable to determine what the amount should be. Documentation for the initial amount calculated and the amount assessed was included in the file.</p> <p>File F10 included three Penalty Worksheets (worksheets dated 12/19/07) for performance test violations, with gravity being assessed as a single day violation. Gravity was assessed according to IDEQ’s Penalty Assessment Matrix. Economic benefit was considered but not assessed. IDEQ was unable to determine what the amount should be. Documentation for the initial amount calculated and the amount assessed was included in the file.</p> <p>File F16 included nine Penalty Worksheets (worksheets dated 9/22/08) for a Tier 1 permit violation and numerous National Emission Standards for Hazardous Air Pollutants violations. Gravity was assessed as a single day violation for all nine violations. EB was considered but not assessed. IDEQ was unable to determine what the amount should be. Documentation for the initial amount calculated and the amount assessed was included in the file.</p> <p><u>Concern:</u>  Treating source test violations as single day violations instead of as multi-day violations, is counter to EPA’s Clean Air Act Stationary</p>

		<p>Source Civil Penalty Policy and Section 113(e)(2) of the CAA. Based on this, a violation commences when the source fails the test and ends after a successful retest, shut-down of the emission unit or specific corrective action has been taken by the source that later proves effective at returning the emissions unit to compliance.</p> <p>IDEQ should discuss this matter with Region 10, review any obstacles to assessing multi-day penalties in state law and/or regulation, and implement a system that assesses multi-day violations in instances such as these.</p>
	Metric(s) and Quantitative Value	File Metric: 11a- 100%
	Action(s)	No further action necessary
	State Responses	<p><u>State Responses to EPA’s Concerns:</u></p> <ol style="list-style-type: none"> <li>1. IDEQ is agreeable to discussing its current penalty assessment process and procedures with EPA, as well as discussing different ways that IDEQ could possibly consider multi-day violations for source test failures.</li> <li>2. IDEQ agrees that a violation generally commences on a certain date and ends when a facility effectively demonstrates a return to compliance. However, a return to compliance under the Clean Air Act Stationary Source Civil Penalty Policy and Section 113(e)(2) of the Clean Air Act can be: a successful retest; shutting down the emissions unit; or completing specific corrective actions that later proves effective at returning the emissions unit to compliance.</li> </ol> <p>As a general practice, IDEQ incorporates specific corrective actions into a facility’s consent order. Although the corrective actions are negotiated with the facility, they are: 1) viewed as both reasonable and necessary for the facility to demonstrate a return to compliance; and 2) are mutually agreed upon between both parties. Further confusing the issue, are EPA’s findings under ‘Element 10’, where EPA finds that IDEQ’s ‘actions are appropriate’.</p> <p>Therefore, IDEQ believes that it is operating within the letter of the Clean Air Act and EPA policy by incorporating corrective actions that are effective at returning an emissions unit to compliance into Consent Orders.</p> <ol style="list-style-type: none"> <li>3. Idaho’s Environmental Protection and Health Act and Air Quality</li> </ol>

		<p>Administrative Penalty Policy allow for the assessment and collection of penalties for multi-day violations. IDEQ has long ago developed and implemented the procedures and tools necessary to address multi-day violations. In fact, IDEQ has enforced and collected penalties on a number of multi-day violations.</p> <p>4. Based on the aforementioned comments, IDEQ believes the rating should be changes to 'Meets SRF Program Requirements'.</p>
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<b>CAA Element 12 – Final Penalty Assessment</b>		
<b>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.</b>		
<b>12.1</b>	<b>Finding</b>	The State documents the differences between initial and final penalties and usually their collection.
	Is this finding a(n):	<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 (Recommendation Required)
	Explanation	<p>All three files reviewed documented the difference between the initial and final penalty assessment. Initial penalty assessments appear in the Base Penalty Worksheet(s) and the Total Assessed Penalty Worksheet, while final penalty assessments and the explanation for any penalty reductions, etc. appear in the Mitigated Penalty Worksheets. All of these worksheets are entered into TRIM and are available electronically if requested.</p> <p>One of the three files, File 3 contained documentation (hard copy) that the final penalty had been collected. File 10 &amp; 16 did not contain a hard copy of the payment receipt however an electronic version of the receipt was stored in the state's TRIM system. IDEQ was able to confirm that penalties for File 10 &amp; 16 had been collected.</p> <p>During the fiscal year under review, the state was in the early phase of implementing a new electronic document management tool called TRIM. Penalty payments are received by the state's Fiscal Department. The payment receipts are then scanned by the state's Fiscal department and entered into TRIM.</p>
	Metric(s) and Quantitative Value	File Review metric 12c – 100% File Review metric 12d – 100%
	Action(s)	No further action necessary
	State Responses	IDEQ tracks and enters penalty payment information in a number of places, including in a facility's hardcopy file. As noted in EPA's comments above, penalty payment information for all three Files (i.e., F3, F10, and F16) was readily available and accessible to EPA during the file review.

V. ELEMENT 13

Idaho's RCRA and CAA programs choose not to participate in Element 13.

# State Review Framework Round 2

## Idaho Draft Report

Direct Implementation of the CWA/NPDES  
Enforcement and Compliance Program

**FINAL 8/27/2013**

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  - B. OFFICIAL DATA PULL
  - C. PDA TRANSMITTAL LETTER
  - D. PDA ANALYSIS CHART
  - E. PDA WORKSHEET
  - F. FILE SELECTION
  - G. FILE REVIEW ANALYSIS

# **I. EXECUTIVE SUMMARY**

## **Major Issues**

- Data entry of single-event violations and linking enforcement actions to violations is not sufficient.
- Region 10 is not taking timely and appropriate enforcement in some cases.

## **Summary of Programs Reviewed**

**The SRF review of Region 10's Idaho CWA program identified the following major issues:**

Element 2-1: A significant amount of data were either not entered or not entered accurately into ICIS. The most significant issues include not entering some single-event violations and not linking enforcement actions to violations.

Element 7-2: Region 10 did not enter single-event violations (SEVs) into ICIS. Idaho has relatively few major facilities with DMR violations. However, unresolved permit violations exceed the national average.

Element 9-2: A significant portion of Region 10's enforcement responses with regard to non-SNC facilities were not sufficient.

Element 10-1: In some cases Region 10 did not take enforcement in a timely manner.

Element 10-3: Region 10 enforcement responses at some non-SNC facilities were not appropriate.

**Areas meeting SRF program requirements or with minor issues for correction include:**

Element 1-1: Region 10 meets data completeness requirements under Element 1.

Element 3-1: A comparison of Idaho's production data to frozen data showed that data entry was timely.

Element 4-1: Region 10 completed requirements of its Idaho CWA PPA.

Element 5-1: Region 10 exceeded its inspection commitments for Idaho in FY 2009.

Element 6-1: Region 10 and Idaho inspection reports were not always complete or finalized in a timely manner.

Element 6-2: Region 10 Idaho inspection reports were of good quality.

Element 7-1: Region 10 made accurate and timely compliance determinations.

Element 8-1: Generally, Region 10 accurately identifies SNC and non-SNC in a timely manner.

Element 9-1: Region 10 enforcement responses return or will return facilities in SNC to compliance.

Element 10-2: Region 10 takes appropriate enforcement responses for SNC facilities.

Element 11-1: Region 10 calculates penalties appropriately.

Element 12-1: Region 10 does not always document initial and final penalty calculations appropriately.

Element 12-2: In some cases Region 10 did not document the collection of penalties in facility files.



## **II. BACKGROUND INFORMATION ON DIRECT IMPLEMENTATION PROGRAM AND REVIEW PROCESS**

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation, 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 and regional Direct Implementation programs.

### **A. GENERAL PROGRAM OVERVIEW**

#### **Agency Structure**

Region 10 directly implements the NPDES program in Idaho. Region 10’s Office of Compliance and Enforcement (OCE) coordinates all enforcement activities for the Region. OCE has six units to cover media programs and general compliance monitoring and program management, including data management. The NPDES Compliance Unit manages compliance and enforcement with NPDES permits and programs such as wet weather enforcement. The Office of Regional Counsel (ORC) is divided into three multimedia units. Multimedia Unit Three is responsible for CWA enforcement work.

#### **Compliance/Enforcement Program Structure**

The Region 10 NPDES compliance and enforcement programs (excluding pretreatment and biosolids) are the responsibility of the Office of Compliance and Enforcement (OCE). The OCE is divided into four media based units and one multi-disciplinary unit that provides services to all of OCE as well as enforcement programs in other Region 10 offices. The NPDES compliance monitoring and enforcement program activities are undertaken by the NPDES Compliance Unit (NCU). The NPDES Permits Unit located in the Office of Water and Watersheds oversees the NPDES pretreatment and biosolids programs.

#### **Roles and responsibilities**

The compliance and enforcement roles and responsibilities are focused in the Office of

Compliance and Enforcement that serves as the focal point for compliance and enforcement planning, guidance, and resource allocation activities. This office is responsible for coordinating strategic compliance assurance efforts, measuring progress, coordinating with EPA Headquarters, and assisting in special enforcement or compliance assistance efforts.

The NPDES Compliance Unit regulates industrial and municipal discharges of pollutants to surface waters in the Pacific Northwest and Alaska. The NPDES Compliance Unit also monitors compliance with EPA-issued permits and enforces its provisions and the enforcement of the CWA where no permit exists.

The water program is conducted by the Office of Water and Watersheds, which has five operating units. The NPDES Permits Unit is responsible for issuing wastewater discharge permits and for overseeing the pretreatment and biosolids programs.

The NPDES Compliance Unit coordinates enforcement actions and case preparation activities with the legal staff in Multi-media Unit 3 within the Region 10 Office of Regional Counsel (ORC). The ORC provides a support function to the NPDES programs since responsibility for initiating actions resides with the media office.

The Inspection and Enforcement Management Unit (IEMU) within the Office of Compliance and Enforcement provides data management and inspector support in addition to inspector training.

The Investigation and Engineering Unit (IEU) within the Office of Environmental Assessment is a multi-disciplinary group providing technical support and assistance to all of the EPA Region 10 media programs. This unit provides monitoring and sampling support, and responds to some citizen complaints.

Region 10 has a field office in Boise, Idaho that supports compliance monitoring activities for NPDES compliance and enforcement as well as NPDES permitting.

EPA Region 10 retains primacy for the NPDES program in Idaho and is responsible for the permitting and enforcement of all NPDES permits. The Idaho Department of Environmental Quality is responsible for the water quality certification of all permits and performance of a number of compliance inspections at smaller facilities for EPA as negotiated in an annual Performance Partnership Agreement. There are no local agencies in Idaho that are responsible for the NPDES programs.

**Resources**

<b>R10 FY09 Resources for CWA/NPDES Program</b>	<b>Number of FTEs</b>
Compliance Monitoring and Enforcement	11.7 FTEs for NPDES in Region 10 (includes OPA program work and IEMU inspectors)  1.3 FTEs dedicated to the Idaho program.
Legal Counsel	1.9 FTE

Data Management Support	1.5
Contractors	0

### **Staffing/Training**

The Region 10 CWA compliance program has 13.7 compliance monitoring and enforcement FTEs to cover all four states in the Region including the direct implementation program in Idaho. Region 10 uses 1.3 FTEs for compliance monitoring and inspections in Idaho. The Region does not receive any additional FTEs to conduct this direct implementation work. During the review period (FY 2009), the Region 10 NPDES Compliance Unit (NCU) program was fully staffed and trained.

### **Data reporting systems/architecture**

Region 10 reports annual commitments and accomplishments in the Annual Commitments System, the EPA accountability system.

All NPDES compliance and enforcement activities are coded into ICIS-NPDES. Additional databases that the NCU uses are: the Storm Water NOI database (HQ), the Storm Water eNOI database (HQ), and NCEP. NCU is responsible for coding permits into ICIS-NPDES and the entry of informal enforcement actions and linking to violations. IEMU is responsible for the entry of formal enforcement actions and linking to violations. NPU is responsible for developing the coding sheets for new/reissued permits.

## **B. PROCESS FOR SRF REVIEW**

**Review Period:** Reviewed files for Fiscal Year 2009.

**Key Dates:** Initial regional notification was sent April 5, 2010, the PDA was sent May 10, 2010, and the on-site review was June 8-10, 2010.

**Communication with the Region:** OECA and Region 10 began planning for the review in April 2010 with initial discussions and a kick-off meeting to discuss the SRF review process. After the initial discussions were held, the first step was to identify the universe of inspection and enforcement files to use in selecting the files for the on-site review. The team downloaded the data metrics and underlying data from the OTIS web site in order to analyze the data and to select the files to be reviewed. After analyzing the data and preparing the list of files for review, a formal letter was sent to the Region on April 5th that presented the data metrics, identified the files for inspection, and outlined the main data issues. The on-site review began June 8<sup>th</sup> with an entrance meeting with Region 10. On June 10th an exit meeting was conducted to provide the review team's initial findings based on the data analysis and file reviews.

**EPA headquarters and regional lead contacts for review:** The EPA headquarters review team consisted of Susan Gilbertson, Paul Karaffa, Allison Donohue, Melissa Saddler, and Greg Siedschlag. The regional contacts were Lauris Davis, Eva DeMaria, Mary Kay Voytilla, and Kimberly Ogle.

### **III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the first SRF review of Idaho’s compliance and enforcement programs, Region 10 and Idaho identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

<b>Due Date</b>	<b>Media</b>	<b>E#</b>	<b>Element</b>	<b>Finding</b>	<b>Explanation</b>
6/1/2010	CWA	E3	Violations ID'ed Timely	Inspection reports are not always timely.	Region 10 should have a SOP to ensure that all inspection reports are completed in a timely manner. In addition, determinations of violations (i.e., SEVs) should be also made and reported in a timely manner according to ICIS-NPDES policy, and should be included in the SOP. The manager of the NPDES Compliance unit indicates that not all inspectors in the region are under her management. Many of the inspectors are not comfortable declaring an observation as a “violation,” and they feel that this job should be done by the Compliance Officer. The region will work on an SOP to address this issue by COB FY 2008.
3/31/2010	CWA	E11	Data Accurate	Linking enforcement actions to violations.	Relating to the issue of linking enforcement actions to violations, metric 11b, OECA should look at this metric by the end of January 2008 to ensure that the linking is taking place. If that is the case, then this recommendation will close. If it looks like the linking is not taking hold, then OECA and Region 10 will need to set up a process for assessing the problem further and determining the nature of the problem.

## IV. FINDINGS

Findings represent OECA’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
<b>Good Practices</b>	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 Region 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 States or regions and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the region.
<b>Meets SRF Program Requirements</b>	This indicates that no issues were identified under this Element.
<b>Areas for Regional* Attention</b>	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 Region needs to pay attention to strengthen its performance, but are not significant enough to require the region to identify and track region actions to correct. This can describe a situation where a Region is implementing either EPA or Region 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 Region should self-correct without additional EPA oversight. However, the Region is expected to improve and maintain a high level of performance.
<b>Areas for Regional * Improvement – Recommendations Required</b>	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the region that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a region 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 Region 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.

**CWA NPDES Program**

Element 1 Data Completeness. Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 meets data completeness requirements under Element 1.
	Explanation	<p>Region 10's data under the Element 1 data metrics was sufficiently complete.</p> <p>Metric 1b1 shows that major individual permits are coded into ICIS at 100%. The number of outfalls (permitted features) for which DMR data was entered for each month of the most recent quarter of the fiscal year under review divided by the number of outfalls for each month in the quarter for which DMR data were expected for majors with individual permits equals 100% (metric 1b2). For metric 1b3, which measures the percentage of major individual permits with DMR data in the national database, the rate was 91.7%.</p> <p>Region 10 is above the national goal and average for all of the above except for metric 1b3, which is close to the national goal of 95%.</p>
	Metric(s) and Quantitative Value	<p>1b1 — Major individual permits, correctly coded limits</p> <ul style="list-style-type: none"> <li>• Idaho: 35/35 = 100%</li> <li>• National Goal <math>\geq</math> 95%</li> <li>• National Average = 99.9%</li> </ul> <p>1b2 — Major individual permits, DMR entry rate</p> <ul style="list-style-type: none"> <li>• Idaho: 180/180 = 100%</li> <li>• National Goal <math>\geq</math> 95%</li> <li>• National Average = 94.6%</li> </ul> <p>1b3 — Major individual permits, percent with DMR data in the national database</p> <ul style="list-style-type: none"> <li>• Idaho: 33/36 = 91.7%</li> <li>• National Goal <math>\geq</math> 95%</li> <li>• National Average = 93.3%</li> </ul>
	Region 10 Response	No Comment.
	Recommendation	

**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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	A significant amount of data were either not entered or not entered accurately into ICIS. The most significant issues include not entering some single-event violations and not linking enforcement actions to violations.
	Explanation	<p>Of the three formal actions with injunctive relief that Region 10 took against major facilities, none had the enforcement violation types entered. This was highlighted as an area for improvement in the Round 1 report and the recommendation remains open.</p> <p>When compiling file metric 2b, the reviewers found the following:</p> <ul style="list-style-type: none"> <li>• 10 facilities with single-event violations discovered during facility inspections were not entered into ICIS</li> <li>• One DMR (pH limits) was entered into ICIS incorrectly</li> <li>• One inspection report was missing</li> <li>• One facility with permit limits was not entered into ICIS</li> <li>• Two facilities were missing an enforcement action in ICIS (NOV).</li> <li>• One facility was not administratively continued in ICIS</li> </ul>
	Metric(s) and Quantitative Value	<p>2a — Actions linked to violations, major facilities</p> <ul style="list-style-type: none"> <li>• Idaho: 0/3 = 0%</li> <li>• National Goal <math>\geq 80\%</math></li> </ul> <p>2b — % of files reviewed where data is accurately reflected in the national data system: 15/32 = 47%</p>
	Region 10 Response	Region 10 is aware that enforcement actions are not being linked to violations. The Region is not able to address this issue at this time due the large number of vacancies in the enforcement program, including a critical NPDES-ICIS data management position. The Region is hoping to backfill the position in the coming year, allowing the Region to take on this project. The Region’s implementation of its SOP for SEVs will be a continued area of focus for management within the Region as implementation of the SOP to date continues to be inconsistent.
	Recommendation	Region 10 is currently developing and implementing an SOP for their SEVs. This same SOP will be used to enter SEVs into the ICIS database for Idaho. The implementation of the SOP should be completed within 365 days of the date of finalization of this report. The results of this SOP will be evaluated by EPA HQ OECA 90 days after implementation of the SOP to ensure SEVs are properly entered into the ICIS database.

**Element 3 Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.**

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	A comparison of Idaho’s production data to frozen data showed that data entry was timely.
	Explanation	Production data for FY 2009 was compared against the FY 2009 frozen data set used for this review. Frozen data represents the data that existed in the system on a date soon after the close of FY 2009, whereas production data reflects current values. There were no serious discrepancies between the two data sets, which demonstrates that Region 10 entered its Idaho FY 2009 data in a timely manner.
	Metric(s) and Quantitative Value	
	Region 10 Response	No comment
	Recommendation	

**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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 completed requirements of its Idaho CWA PPA.
	Explanation	<p>Between them, Region 10 and Idaho conducted 24 inspections for about 45% of majors during FY 2009. They also conducted 54 inspections at non-major and general permittees. This level of coverage is allowed under CWA guidance.</p> <p>Component 5 of the CY 2009 Water Quality PPA covers the NPDES program, listing activities, priorities, and outcomes for 2009. Details are below.</p> <p><b>Activities:</b></p> <p>1. NPDES: Perform inspections, certify permits, review plans and specifications for wastewater facilities construction, track sanitary sewer overflows (SSOs), and notify EPA of enforcement actions of interest.</p> <ul style="list-style-type: none"> <li>• Approach: DEQ performs inspection, provides water quality</li> </ul>



	<p>certifications, and reviews plans and specification for wastewater facilities construction.</p> <ul style="list-style-type: none"> <li>• Outputs: 1. Inspection list drafted by 9/1 and finalized by 10/31 each year. 2. Inspections consistent with negotiated annual inspection list. 3. Comments on preliminary draft permits and draft 401 certifications as appropriate, and final 401 certifications for proposed final permits. 4. Plan approval letters for wastewater facilities construction. 5. Quarterly reports that include list of completed inspections and inspection reports for the period. 6. Notify EPA of SSO and enforcement actions of interest, including biosolids, septage, and surface water. 7. Quarterly SSO report that includes list of all SSO events by permitted and unpermitted facilities.</li> </ul> <p>2. Biosolids coordination, stormwater activities, and capacity development</p> <ul style="list-style-type: none"> <li>• Approach: Improve coordination of the biosolids programs with EPA, other state agencies, and the regulated community.</li> <li>• Outputs: 1. DEQ will assist EPA with compliance assistance. 2. Review proposals for land application of domestic septage and approve or disapprove land application sites in accordance with state regulations. 3. Revise and promote the DEQ Catalog of Storm Water BMPs as needed. 4. Provide basic information and referrals on stormwater issues. 5. Maintain capacity development information/documentation.</li> </ul> <p>3. Component commitments</p> <ul style="list-style-type: none"> <li>• EPA commitments: 1. Provide technical assistance for biosolids. 2. Work with DEQ in determination of NPDES compliance inspection schedule draft and final. 3. Implement CY 2009 operating plan to reduce backlog of expired NPDES permits and issue permits to new sources. 4. Provide schedule of phase 2 MS4 stormwater permitting activities by January 2009.</li> </ul> <p><b>Priorities:</b> 1. Complete approximately 50 NPDES inspections this year, emphasis on smaller facilities. 2. EPA will provide DEQ a plan for CY 2009 to issue NPDES permits. 3. Utilize EPA’s plan and DEQ policy to prepare 401 certifications.</p> <p><b>Outcomes:</b> 1. 50 NPDES compliance inspections completed, with an emphasis on smaller facilities. 2. Perform NPDES certifications in a timely manner.</p> <p><b>Notable difference between 2008 and 2009 PPAs:</b> Program Goal for NPDES: 2008 report says “DEQ will continue to develop capacity to perform tasks that assist EPA and may in the future enable DEQ to assume primacy of the NPDES program if desired.”</p>
Metric(s) and Quantitative Value	<p>4a — Planned inspections completed</p> <ul style="list-style-type: none"> <li>• Region 10 + Idaho inspections completed = 78</li> </ul>

	<ul style="list-style-type: none"> <li>• Region 10 + Idaho PPA commitment = 50</li> <li>• Metric 4a value: 78/50 = 156%</li> </ul>
Region 10 Response	No comment
Recommendation	

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

5-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 exceeded its inspection commitments for Idaho in FY 2009.
	Explanation	In the PPA, Region 10 and Idaho committed to complete 50 inspections in FY 2009, with an emphasis on non-majors. Region 10 and Idaho combined to inspect 24 majors, 26 non-major individual permittees, and 28 non-major general permittees for a total of 78.
	Metric(s) and Quantitative Value	5a — Inspection coverage, NPDES majors <ul style="list-style-type: none"> <li>• Region 10 + Idaho: 24/54 = 45.3%</li> <li>• National Average = 66.7%</li> <li>• National Goal = 100% every two years</li> </ul> 5b1 — Inspection coverage, non-major individual permittees: 26/102 = 25.5% 5b2 — Inspection coverage, non-major general permittees: 28/85 = 32.9%
	Region 10 Response	No Comment
	Recommendation	

**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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 and Idaho inspection reports were not always complete or finalized in a timely manner.
	Explanation	Of the inspection reports reviewed, 22 of 24 (92%) contained enough detail to determine compliance at the facilities.

		<p>However, several inspection reports were missing QA management signatures, second-level signatures, dates, and in some cases a summary narrative of the findings during the inspection. While most of these reports were substantively complete, these relatively minor deficiencies can impact the overall integrity of the inspection report. Inspection report completeness was identified as an area for improvement in Round 1 and the recommendation was completed.</p> <p>Inspection reports are expected to be completed and signed within 30 days after the on-site inspection is performed, with 60 days allotted for sample inspections. Two of the inspections reviewed took longer than 60 days — 120 and 146 days respectively.</p> <p>During Round 1, inspection reports were identified as being not timely. It was recommended for Region 10 to develop an SOP to address this issue. This is a current working recommendation in the SRF Tracker.</p>
	Metric(s) and Quantitative Value	<p>6b — Percentage of inspection reports reviewed that are complete: 9/24 = 38%</p> <p>6d — Percentage of inspection reports reviewed that are timely: 9/24 = 38%</p>
	Region 10 Response	<p>The Region continues to work on inspection report timeliness and ensuring QA review. Over the last couple of years the Region's inspector group has focused on inspection report format and the QA procedures, putting in place standard procedures for all inspectors to follow. Every inspection report now uses a standard format that ensures consistency but also results in more timely reports. The Region has also instituted a quality assurance procedure. Reports are often reviewed informally among inspector peers and all reports are reviewed by a unit manager. The Region continues to improve management of the 30-60 day turnaround time for inspection reports. The Region is also working closely with Idaho DEQ regarding inspection report quality and timeliness.</p>
	Recommendation	
6-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 Idaho inspection reports were of good quality.
	Explanation	<p>Notwithstanding that many individual inspection reports were missing information such as second-level signatures and dates, the reports generally contained sufficient information to determine compliance. The review team notes that the Region 10 files were extremely well organized and complete, and contained appropriate and accurate information.</p>

Metric(s) and Quantitative Value	6c — Percentage of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination: 22/24 = 92%
Region 10 Response	No Comment
Recommendation	

**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	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 made accurate and timely compliance determinations.
	Explanation	<p>The inspection reports and facility files reviewed generally contained sufficient information and documentation to show that resulting compliance determinations were accurate. The only exception captured in metric 7e was due to a sampling finding that was missing from the file.</p> <p>Furthermore, the actions taken by EPA Region 10, as well as actions taken by facilities in response to EPA notices of violation and/or compliance orders, returned the facilities to compliance.</p>
	Metric(s) and Quantitative Value	7e — Percentage of inspection reports of facility files reviewed that led to accurate compliance determinations: 23/24 = 96%
	Region 10 Response	No Comment
	Recommendation	
7-2	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 did not enter single-event violations (SEVs) into ICIS. There are relatively few major facilities in the state with DMR violations. However, unresolved permit violations exceed the national average.
	Explanation	<p>SEVs must be entered into ICIS. The review team noted a pattern of lack of reporting of SEVs and instances where SEVs were also not identified appropriately and accurately.</p> <p>SEV determinations are not only to be accurately identified and entered</p>

	<p>into ICIS but should be completed in a timely manner. The review team noted a trend in Region 10's handling of SEVs found during onsite inspections where SEVs were not entered into ICIS at all.</p> <p>During Round 1, SEVs were identified as not being entered into ICIS. It was recommended for Region 10 to develop an SOP to address this issue. This SOP has been completed and is currently in the process of being implemented after OECA review.</p> <p>Also to be noted are the number of unresolved permit schedule violations. There were 55 of these at the end of FY 2009, which is 42% of its universe. The national average is 27%. The percentage of majors with DMR violations — 36% — is significantly lower than the national average of 53%.</p>
Metric(s) and Quantitative Value	<p>7a1 — Single-event violations at majors (1 FY) = 0</p> <p>7a2 — Single-event violations at non-majors (1 FY) = 0</p> <p>7b — Facilities with unresolved compliance schedule violations (at end of FY): 0/0 = 0%</p> <p>7c — Facilities with unresolved permit schedule violations (at end of FY):</p> <ul style="list-style-type: none"> <li>• Region 10: 55/131 = 42%</li> <li>• National Average = 27%</li> </ul> <p>7d — Percentage of major facilities with DMR violations (1 FY)</p> <ul style="list-style-type: none"> <li>• Region 10: 13/36 = 36%</li> <li>• National Average = 53%</li> </ul> <p>8b — Percentage of single-event violation(s) that are accurately identified as SNC or Non-SNC: 16/19 = 84%</p>
Region 10 Response	The Region's implementation of its SOP for SEVs will be a continued area of focus for management within the Region as implementation of the SOP to date continues to be inconsistent.
Recommendation	See Recommendation 2-1.

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

8-1	Is this finding a(n):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Generally, Region 10 accurately identifies SNC and non-SNC in a timely manner.
	Explanation	Data metric 8a2 identifies Idaho’s low SNC rate of 16.7% for the review year. SEVs are accurately identified as SNC or non-SNC during inspections. Similarly, DMR reports from Idaho facilities are accurately entered into ICIS with accurate identification of SNC and non-SNC facilities. Of the five SNC SEVs, four were reported to ICIS in a timely manner.
	Metric(s) and Quantitative Value	8a2 — Percentage of active major facilities in SNC during the reporting year <ul style="list-style-type: none"> <li>• Region 10: 8/54 = 14.8%</li> <li>• National Average: 21.2%</li> </ul> 8b — Percentage of single-event violation(s) that are accurately identified as SNC or non-SNC: 16/19 = 84% 8c — Percentage of single-event violation(s) identified as SNC that are reported timely: 4/5 = 80%
	Regional Response	No comment.
	Recommendation(s)	

**Element 9 Enforcement Actions Promote Return to Compliance. Degree to which Regional 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	Is this finding a(n):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 enforcement responses return or will return facilities in SNC to compliance.
	Explanation	While the four enforcement responses the review team analyzed is a small sample, all of them returned or will return facilities in SNC to compliance. The review team notes the enforcement responses reviewed were complete and encompassed the universe of non-compliance and violations at a facility, even those that were outstanding from previous years. During Round 1, enforcement responses to non-SNC facilities were identified as not bringing those facilities back into compliance. It was recommended that Region 10 conduct spot check inspections at some facilities that were issued ESOs to verify their return to compliance.

		Region 10 will conduct spot check inspections as resources allow.
	Metric(s) and Quantitative Value	9b — Percentage of enforcement responses that have returned or will return a source in SNC to compliance: 4/4 = 100%
	Regional Response	No Comment
	Recommendation(s)	
9-2	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	A significant portion of Region 10's enforcement responses with regard to non-SNC facilities were not sufficient.
	Explanation	<p>The review team found 10 facilities with non-SNC violations that were either not addressed with an enforcement response or the enforcement response did not return the facility to compliance. Responses at non-major facilities with issued notices of violation (informal enforcement) were rarely escalated when non-compliance continued.</p> <p>While Region 10 is aware of the problems at non-SNC facilities (i.e. municipal facilities), due to limited resources and site-specific water impairment EPA has in some instances chosen to use enforcement discretion over the years. By developing status reports the region is able to prioritize the work on municipals that are causing the most significant environmental harm. The region also holds subsequent conference calls with the owner/operator to assess the facility's efforts to comply with their permit. Frequently non-SNC facilities in violation do not receive an enforcement response.</p>
	Metric(s) and Quantitative Value	9c — Percentage of enforcement responses that have returned or will return a source with non-SNC violations to compliance: 15/25 = 60%
	Regional Response	Since the time of this SRF review, the Region has developed a new tool for enforcement staff to target NPDES facilities that are out of compliance. The R10-NET uses ICIS business objects and Excel to help case officers target facilities for formal enforcement action. The tool organizes important information in one spot: permit status, inspection history, effluent violations, schedule violations, and other key factors including 5-year trend information for each facility. The Region has successfully used this tool over the last 2 years for targeting enforcement cases in Idaho.
	Recommendation(s)	EPA will review regional performance under this metric in September 2013 to determine if additional follow-up is necessary.

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

10-1	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	In some cases Region 10 did not take enforcement in a timely manner.
	Explanation	<p>Though the sample size is low, the review team found that half of major facilities in SNC were not addressed in a timely manner by an enforcement response. The review team notes the complexity and massive scope of some of the facilities under review. However, in one instance the review team notes a pattern of significant violations that were unaddressed for several years, albeit once action was initiated, it was completed quickly.</p> <p>Where an enforcement response was taken for non-SNC violations, a significant percentage of time (30%) responses were not taken in a timely manner, thus leading to continued non-compliance at a significant number of facilities.</p> <p>Timely and appropriate enforcement actions were identified as a concern during Round 1. It was recommended for Region 10 to include as part of its municipal strategy the practice of using compliance orders for returning municipalities to compliance. This recommendation was closed out during Round 1.</p>
	Metric(s) and Quantitative Value	<p>10b — Percentage of enforcement responses reviewed that address SNC that are taken in a timely manner: <math>2/4 = 50\%</math></p> <p>10e — Percentage of enforcement responses for non-SNC violations where a response was taken in a timely manner: <math>16/23 = 70\%</math></p>
	Regional Response	To address the longstanding issue of timely enforcement response for CWA related enforcement actions, Region 10 (NCU and ORC) recently worked with a consultant to help LEAN the Region’s CWA administrative enforcement process. The lean event occurred in April 2013 and resulted in a new set of standard procedures and associated timelines for the various actions that are part of the enforcement action. The new process is already in the trial phase with a select number of new enforcement actions testing the new standard procedures. The new LEAN process will be fully implemented for all CWA enforcement actions starting in FY14.
	Recommendation(s)	Region 10 should develop a checklist, or some other appropriate management tool, for facilities in SNC which are to be addressed with an enforcement response within 120 days of finalization of this report. The checklist should follow the enforcement response from identification to resolution, and include timelines for the various actions. OECA will review and comment on any changes to the



		checklist/management tool 150 days after report finalization. OECA will re-evaluate the timeliness of enforcement response in September 2013.
10-2	Is this finding a(n):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 takes appropriate enforcement responses for SNC facilities.
	Explanation	The four facilities the review team analyzed is a small sample. However, all enforcement responses to SNC violations analyzed by the review team were appropriate and in several instances address violations going back many years. These enforcement responses were comprehensive.
	Metric(s) and Quantitative Value	10c — Percentage of enforcement responses reviewed that address SNC that are appropriate to the violations: 4/4 =100%
	Regional Response	No comment.
	Recommendation(s)	
10-3	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input checked="" type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 enforcement responses at some non-SNC facilities were not appropriate.
	Explanation	<p>Non-SNC violations at 10 of 25 facilities reviewed were either not addressed with an appropriate enforcement response or the enforcement response did not return them to compliance.</p> <p>Timely and appropriate enforcement actions were identified as a concern during Round 1. It was recommended that Region 10 include as part of its municipal strategy the practice of using compliance orders for returning municipalities to compliance. This recommendation was closed out during Round 1.</p>
	Metric(s) and Quantitative Value	10d — Percentage of enforcement responses reviewed that appropriately address non-SNC violations: 15/25 = 60%
	Regional Response	Since FY09, the Region has been using Administrative Compliance Orders as part of our enforcement response for municipalities and other facilities when it makes sense. Since FY09 the number of ACOs issued annually has ranged between 7 and 18.
	Recommendation(s)	See Recommendation 9-2.

**Element 11 Penalty Calculation Method. Degree to which Region 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	Is this finding a(n):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 calculates penalties appropriately.
	Explanation	The review team notes that Region 10 consistently calculates penalties where appropriate and includes economic and gravity benefit components in their analysis.
	Metric(s) and Quantitative Value	11a — Percentage of penalty calculations that consider and include where appropriate gravity and economic benefit: 8/9 = 89%
	Regional Response	No comment.
	Recommendation(s)	

**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	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	Region 10 does not always document initial and final penalty calculations appropriately.
	Explanation	In two instances there were gaps in the documentation in the file pertaining to initial and final penalty calculations.
	Metric(s) and Quantitative Value	12a — Percentage of penalties reviewed that document the difference and rationale between the initial and final assessed penalty: 7/9 = 78%
	Regional Response	The region will ensure that the file contains the appropriate final penalty justifications and proof of payment.
	Recommendation(s)	

12-2	Is this finding a(n):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Regional Attention <input type="checkbox"/> Area for Regional Improvement – Recommendations Required
	Finding	In the majority of cases Region 10 documented the collection of penalties in facility files.
	Explanation	Three files did not include copies of the final checks from the facility. Proof of payment can be added to the files via a printout from the Cincinnati Finance Office through IFMS.
	Metric(s) and Quantitative Value	12b — Percent of enforcement actions with penalties that document collection of penalty: 6/9 = 67%
	Regional Response	See above.
	Recommendation(s)	

## **V. Element 13 Submission**

No relevant EPA documentation for this section.

## **APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the first SRF review of Idaho's compliance and enforcement programs, Region 10 and Idaho identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

Status	Due Date	Media	E#	Element	Finding	Recommendation
Completed	9/30/2009	CWA	E1	Insp Universe	There appear to be many uninspected non-major sources.	Region 10 should conduct an assessment of the non-majors that have not been inspected or that have not been inspected within two years to determine if any them have been inspected and not reported to the database and to determine if there are any that need to be inspected in the near future. Region 10 indicates that this has already been accomplished. The Region should provide this assessment to OECA by October 31, 2007.
Completed	9/29/2009	CWA	E1 , E9	Insp Universe, Grant Commitments	It is difficult to know the number of inspections the Region will conduct in Idaho.	Region 10 should provide in the ACS a breakout of NPDES inspection commitments in Idaho, which was not required in FY 2005. The Region indicates that this will occur on all future ACS bids. OECA will follow up on this by reviewing the ACS bids.
Completed	10/31/2009	CWA	E2	Violations ID'ed Appropriately	Inspection reports are not always complete.	Region 10 should have a SOP for managing and ensuring the completeness of the inspection reports to include a management review of the reports. The Region indicates that it has already developed an SOP to ensure management review of EPA generated reports. Beginning in August of 2007, all inspection reports will be QA's by a manager and the 3560's will reflect this. By October 31, 2007, the Region should provide OECA with a copy of the SOP.
Working	6/1/2010	CWA	E3	Violations ID'ed Timely	Inspection reports are not always timely.	Region 10 should have a SOP to ensure that all inspection reports are completed in a timely manner. In addition, determinations of violations (i.e., SEVs) should be also made and reported in a timely manner according to ICIS-NPDES policy, and should be included in the SOP. The manager of the NPDES Compliance unit indicates that not all inspectors in the region are under her management. Many of the inspectors are not comfortable declaring an observation as a "violation," and they feel that this job should be done by the Compliance Officer. The region will work on an SOP to address this issue by COB FY 2008.

Status	Due Date	Media	E#	Element	Finding	Recommendation
Completed	12/31/2007	CWA	E4	SNC Accuracy	Timeliness of enforcement actions.	Region 10 should appropriately address noncompliance at the two facilities that are in SNC. The Region indicates that one of these facilities (Beartrack) was in active negotiations with the Region at the time of the review. The Region should also work with the other four facilities that are in RNC to ensure that they return to compliance as well. The Region states that they will address these facilities as soon as headquarters is able to run the Watch List for Region 10. The Region will also evaluate the QNCR each quarter and take appropriate enforcement. Region 10 should not wait for the Watch List in order to address the facilities listed in OTIS as being in either SNC or RNC. The Region should propose a timeframe and milestones for addressing these instance of non-compliance, especially the ones that are in SNC or RNC for more than two or three quarters, per the requirements of the CWA EMS.
Completed	12/30/2009	CWA	E5	Return to Compliance	Region needs to verify that facilities receiving ESOs are actually in compliance.	Region 10 should conduct spot check inspections at some number of facilities that have issued ESOs against them in order to verify their return to compliance. The verification should be included in the enforcement file. The Region has indicated that this will only occur when they are in these areas for other activities. OECA recognizes that a lack of travel funds is a constraint to complying with this recommendation. However, Region 10 should still provide OECA an indication of when they will conduct at least one of these verification visits within the next fiscal year.
Completed	12/31/2009	CWA	E5	Return to Compliance	SNC and RNC need to be addressed timely.	Region 10 needs to ensure that facilities that are in long term SNC or RNC are addressed as quickly as possible and that instances of SNC are addressed with a formal enforcement action. Region 10 states that they will continue to review the Watch List on a quarterly basis and compare their other case load with the subject facility to determine if it they can refocus their resources. As noted in the recommendation under Element 4, Region 10 needs to address these longstanding instances of SNC and RNC per the requirements of the CWA EMS. The Region should propose a timeframe and milestones for addressing and implementing this recommendation.

Status	Due Date	Media	E#	Element	Finding	Recommendation
Completed	12/30/2009	CWA	E5	Return to Compliance	Region needs to use compliance orders to return sources to compliance.	Region 10 should include as part of its municipal strategy the practice using compliance orders for returning the municipalities to compliance. These orders should determine a reasonable time period for compliance, i.e., applying for permit or complying with an existing permit, and require timely performance. The region does not agree with this recommendation and will use compliance orders when determined to be appropriate, and not as a common way of dealing with noncompliance at none sophisticated entities. The Region believes that such practice only seems to prolong the facilities getting appropriate funding to correct the problem. The review team discussed this issue with the director of WED. OECA disagrees with the Regions position on the use of compliance orders and would like to discuss this further with the Region. By November 30, 2007, the management of WED and Region 10 should discuss and resolve this issue.
Completed	9/30/2007	CWA	E7	Penalty Calculations	Penalties need to be consistent with policy and documented in files.	Region 10 should ensure that it is using the CWA penalty policy in determining penalties and properly documenting penalty assessments, including calculations for economic benefit, in the files. The Region indicates that this practice has now been institutionalized.
Long Term Resolution	3/31/2010	CWA	E11	Data Accurate	Linking enforcement actions to violations.	Relating to the issue of linking enforcement actions to violations, metric 11b, OECA should look at this metric by the end of January 2008 to ensure that the linking is taking place. If that is the case, then this recommendation will close. If it looks like the linking is not taking hold, then OECA and Region 10 will need to set up a process for assessing the problem further and determining the nature of the problem.
Completed	11/30/2009	CWA	E11	Data Accurate	Data errors need correction.	Region 10 should correct the identification numbers and any other data errors associated with the Harrison Heights facility and the associated inspections and enforcement actions. Region indicates that data is quality assured on a periodic basis. This is a specific issue that should not wait for period data clean up. It should be addressed by November 30, 2007.

## APPENDIX B: OFFICIAL DATA PULL

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Idaho Metric Prod	Count Prod	Universe Prod	Not Counted Prod
P01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			36	NA	NA	NA
P01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			18	NA	NA	NA
P01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			102	NA	NA	NA
P01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			189	NA	NA	NA
P01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	99.9%	100.0%	35	35	0
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	94.6%	100.0%	180	180	0
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	93.3%	91.7%	33	36	3
P01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	9	9
P01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			100.0%	97	97	0
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			95.9%	352	367	15
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			88.1%	89	101	12

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Idaho Metric Prod	Count Prod	Universe Prod	Not Counted Prod
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			87.3%	89	102	13
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			75	NA	NA	NA
P01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			4	NA	NA	NA
P01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			4	NA	NA	NA
P01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			28	NA	NA	NA
P01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			28	NA	NA	NA
P01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			2	NA	NA	NA
P01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			2	NA	NA	NA
P01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA



Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Idaho Metric Prod	Count Prod	Universe Prod	Not Counted Prod
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			41	NA	NA	NA
P01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			24	NA	NA	NA
P01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
P01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			21	NA	NA	NA
P01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$578,492	NA	NA	NA
P01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
P01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$185,000	NA	NA	NA
P01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA
P01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$1,110,578	NA	NA	NA
P01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$578,492	NA	NA	NA
P02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	0	0	0
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=; 80%		0.0%	0	3	3
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	22.6%	12	53	41
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	24.5%	13	53	40

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Idaho Metric Prod	Count Prod	Universe Prod	Not Counted Prod
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	45.3%	24	53	29
P05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			19.6%	20	102	82
P05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			5.9%	6	102	96
P05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			25.5%	26	102	76
P05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			22.4%	19	85	66
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			10.6%	9	85	76
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			32.9%	28	85	57
P05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	105	105
P05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			9.5%	10	105	95
P05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			9.5%	10	105	95
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	0 / 0	0	0	0
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	42.0%	55	131	76

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Idaho Metric Prod	Count Prod	Universe Prod	Not Counted Prod
P07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.0%	36.1%	13	36	23
P08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			9	NA	NA	NA
P08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.2%	16.7%	9	54	45
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	9.3%	5	54	49

## **APPENDIX C: PDA TRANSMITTAL LETTER**

Appendices C, D and E 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 C, contains the letter transmitting the results of the Preliminary Data Analysis to the Region. This letter identifies areas that the data review suggests the need for further examination and discussion during the review process.

May 10, 2010

Lauris Davies  
Associate Director  
Office of Compliance and Enforcement  
EPA Region 10  
Suite 900  
1200 Sixth Avenue  
Seattle, WA 98101

Dear Lauris:

In our opening letter of April 5, 2010, EPA's Office of Enforcement and Compliance Assurance (OECA) notified EPA Region 10 of its intention to begin the State Framework Review of Regions 10's Clean Water Act NPDES Enforcement Program in Idaho. As noted, the base year for review will be federal fiscal year 2009. Thank you for providing the requested information and your response to the official data metrics results sent on April 8, 2010. OECA has analyzed the data against set goals and commitments, and with this letter, are transmitting our analysis and the file selection to you.

This follow-up letter includes our preliminary analysis of the EPA Region data metrics results, the official data metrics results spreadsheet(s) with any EPA Region-provided data corrections/discrepancies, our focus areas for the upcoming on-site file review, and the files that have been selected for review.

In this transmittal, we also are outlining any specific conditions or information that we are aware of and may be relevant to the review (for example, credits under Element 13, special situations regarding data flow, etc). We are providing this information to you in advance so that you have adequate time to compile the files that we will review and can begin pulling together any supplemental information that you think may be of assistance during the review. After reviewing the enclosed information, if there are additional circumstances that OECA should consider during the review, please provide that information to us prior to the on-site file review.

OECA has established a cross program team of managers and senior staff to implement the Region 10 review. Paul Karaffa will be OECA's primary contact for the review. He will lead the review team, directing all aspects of the review for the region. Susan Gilbertson is OECA's SRF Team Leader with overall responsibility for the review. The NPDES program expert on the review team will be Allison Donohue. All team members will perform their onsite review of Regions 10's Clean Water Act NPDES Enforcement Program of Idaho beginning June 8, 2010 and ending June 10, 2010. OECA is requesting that a room with secure Internet accessibility be available.

Please note that the enclosed preliminary findings are based only on the data metrics results themselves. Final findings may be significantly different based upon the results of the file review and ongoing discussions with you and your staff. If you have any questions about the process that we intend to use, please contact Paul Karaffa.

All information and material used in this review may be subject to federal and/or state disclosure laws. While EPA intends to use this information only for discussions with EPA Region 10, it may be necessary to release information in response to a properly submitted request.

Sincerely,

Chris Knopes, Director, NPMAS

Enclosure 1 – CWA Preliminary Data Analysis of EPA Region’s SRF Data Metrics  
Enclosure 2 – CWA Data Metrics Preliminary Data Analysis Worksheet  
Enclosure 3 – CWA Explanation of File Selection  
Enclosure 4 – CWA Table of Selected Files

cc: Lisa Lund, Director, Office of Compliance  
David Hindin, Deputy Director, Office of Compliance

## **APPENDIX D: 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.

### **Preliminary Data Analysis of EPA Region's SRF Data Metrics**

#### **I. Introduction – Purpose of Preliminary Data Analysis**

To adequately prepare for OECA's on-site review and discussions of findings/recommendations, the SRF process calls for OECA to: (1) perform preliminary analysis of the SRF data metrics to identify potential areas of concern and (2) identify the number and specific facility list of files to be reviewed during the on-site file review step. The following preliminary data analysis provides the EPA Region with a preliminary look at how OECA interprets Regional performance relevant to each SRF element that has an associated data metric. EPA's preliminary review of the data is only the first step in the review process, and is primarily used to frame key discussion topics during the on-site review. Elements that do not have data metrics will be evaluated during the file reviews. Actual findings will be developed only after the file reviews and dialogue with the Region have occurred. Data metrics results were pulled from the Online Tracking Information System (OTIS) SRF data metrics Web site (<http://www.epa-otis.gov/otis/stateframework.html>) on May 5, 2010.

Preliminary review by OECA of CWA SRF data metrics results for the FY09 period has identified both positive accomplishments and potential areas of concern that will require a focused dialogue. The SRF on-site file review meeting(s) will cover all SRF metrics (data and file review), including additional Element 13 information if submitted by the Region. This enclosure provides a detailed look at OECA's preliminary data analysis.

#### **II. Acknowledgement of Prior Issues, Commitments, or Ongoing Accomplishments**

The following issues or accomplishments are acknowledged here to provide context for the review.

- In response to OECA's ODS, Region 10 noted element 1G regarding penalties/collected. They stated a difference in data may be accounted by whether the penalty settlement was actually collected or not (one company went bankrupt and others have payment plans over three years).
- The SRF Tracker includes the following items that OECA kept in mind during the preliminary data analysis:
  - Region 10 should ensure that all inspection reports are completed in a timely manner. In addition, determinations of violations (i.e., SEVs) should be also made and reported in a timely manner according to ICIS-NPDES policy.
  - Region 10 must set up a process for assessing Metric 11b (linking enforcement actions to violations) and determine the nature of the problem to the extent that Region 10 must comply.



### III. Preliminary Data Analysis of EPA Region’s Data Metrics Results

OECA has reviewed the SRF data metrics in relation to national goals and averages. Below are highlights and potential areas of concern. OECA intends to focus on these areas of concern during the on-site review. The enclosed worksheet contains more detail.

Original Data Pulled from Online Tracking Information System (OTIS)									EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	IdahoMetric	Count	Universe	Initial Findings
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	93.3%	91.7%	33	36	Idaho is at 91.7% compliance but falls short of the National average (93.3%) and the National Goal (95%).
P01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			87.3%	89	102	87.3% non compliance rate appears to be high. We need to discuss with the region what is happening to bring these sources back to compliance?
P01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			75	NA	NA	75 non-majors have DMR non-receipt for 3 years. Additional analysis should be done on this metric.
P01E3E	Informal actions: number of mom-major facilities (1 FY)	Data Quality	EPA			28	NA	NA	Non-compliance rates are high and do not correspond with the expected numbers in this metric.
P01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			28	NA	NA	Non-compliance rates are high and do not correspond with the expected numbers in this metric.
P01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			41	NA	NA	Non-compliance rates are high and do not correspond with the expected numbers in this metric.
P01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			24	NA	NA	Non-compliance rates are high and do not correspond with the expected numbers in this metric.

P01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$578,492	NA	NA	The collection from 21 penalties were not collected according to the data. Region 10 commented that this metric depends on whether the penalty settlement was actually collected or not (one company went bankrupt and others have payment plans over three years).
P02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=: 80%		0.0%	0	3	There is no linkage between violations at major facilities and the actions taken.
P05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.9%	22.6%	12	53	Inspection coverage is well under the national average and the national goal. These concerns should be discussed with the region.
P05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	24.5%	13	53	Inspection coverage is well under the national average and the national goal. These concerns should be discussed with the region.
P05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.7%	45.3%	24	53	Inspection coverage is well under the national average and the national goal. These concerns should be discussed with the region.
P05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			10.6%	9	85	The number of inspections appears to be acceptable, but the question is why the additional 19 inspections did not make it into the data base.
P05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			32.9%	28	85	The number of inspections appears to be acceptable, but the question is why the additional 19 inspections did not make it into the data base.
P07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	It appears that the region is not entering SEVs into ICIS. The region has been advised of this issue during previous reviews. It continues to be an issue.

P07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	It appears that the region is not entering SEVs into ICIS. The region has been advised of this issue during previous reviews. It continues to be an issue.
P07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		28.2%	0 / 0	0	0	This metric concerns compliance schedules found in enforcement actions. The indication is that all have been resolved and are on schedule. The problem is that there is a zero (0) in the denominator, which should be the number of compliance schedules issued.
P07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.0%	42.0%	55	131	42% appears to be a high rate of unresolved permit schedule violations. We will need to discuss with the region how best to address this issue.
P10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	9.3%	5	54	9.3% is well above the national goal of <2%. We need to discuss with the region the reason for the timeliness issue.

## **APPENDIX E: PDA WORKSHEET (with EPA Region 10 and OECA Comments)**

EPA Region 10 did not make any corrections to the data, so this appendix is not necessary. Refer to Appendix D.

## **APPENDIX F: 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](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](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.

EPA has followed the SRF File Selection Protocol when selecting the listed files. This includes a representative sample of files, and may include supplemental file review. Under the File Selection Protocol, EPA may examine additional files to help better understand whether any potential areas of concern identified via the data metrics review are substantiated. These additional files are noted below.

EPA is requesting 32 files for the CWA Direct Implementation SRF review. The representative file selection method was conducted using the methodology described in the File Selection Protocol (using the OTIS website). Thirty-two files were selected. Of the 32, there will be at least 3 files reviewed in each regional area in Idaho. An additional 5 supplemental files will be examined to assess an area of potential concern noted in the preliminary data analysis (no SEVs reported). Supplemental file reviews are used to ensure that the region has enough files to look at to understand whether a potential problem pointed out by data analysis is in fact a problem.

## File Selection Table

f_name	Program ID	f_street	f_city	State Region	f_state	f_zip	Permit Component	Insp	Viol	SEV	SNC	Inform A	Form A	Penalties	Universe	Select
AARDEMA DAIRY #2	IDG010146	2200 EAST 3600 SOUTH	WENDELL	5	ID	83355	CAF	1	0	0	0	1	0	0	Minor	accepted_representative
BLACKFOOT, CITY OF	ID0020044	2025 RIVERTON ROAD	BLACKFOOT	3	ID	83221	POT PRE	1	0	0	0	0	0	0	Major	accepted_representative
BONNERS FERRY, CITY OF	ID0020222	7232 MAIN STREET	BONNERS FERRY	1	ID	83805	POT	1	4	0	0	1	0	0	Minor	accepted_representative
C BAR M DAIRY	IDG010088	268 SOUTH 500 WEST	JEROME	5	ID	83338	CAF	0	0	0	0	0	1	5,800	Minor	accepted_representative
COUNCIL, CITY OF	ID0020087	500 SOUTH HORNET CREEK STREET	COUNCIL	2	ID	83612	POT	0	9	0	0	0	1	11,000	Minor	accepted_representative
EASTERN IDAHO REGIONAL WASTEWATER AUTHORITY	ID0020133	101 SOUTH EMERSON AVENUE	SHELLY	3	ID	83274	POT	0	50	0	4	0	0	0	Minor	accepted_representative
EMMETT, CITY OF	ID0020311	1478 CASCADE ROAD	EMMETT	2	ID	83617	POT	0	13	0	1	1	0	0	Minor	accepted_representative
FRAME, CRAIG	IDR10B139	CORNER OF MIDDLE FORK & DRY CREEK ROADS	CROUCH	2	ID	83622	SWC	0	0	0	0	0	1	47,700	Minor	accepted_representative
HECLA MINING COMPANY	IDR05A396	397 FRIDAY AVENUE	MULLAN		ID	83846		0	0	0	0	0	1	85,000	Minor	accepted_representative
HECLA MINING COMPANY	ID0000175	397 FRIDAY AVENUE	MULLAN	1	ID	83846		1	0	0	0	0	2	262,500	Major	accepted_supplemental
HECLA MINING COMPANY	ID0026468	19 MILES NE OF STANLEY	STANLEY	6	ID	83278		1	0	0	0	0	0	0	Major	accepted_representative
HEYBURN, CITY OF	ID0020940	1421 R STREET	HEYBURN	5	ID	83336	POT	0	17	0	4	0	0	0	Minor	accepted_representative
IDAHO DEPARTMENT OF FISH AND GAME	IDG130003	1060 STATE FISH HATCHERY ROAD	HAGERMAN	5	ID	83332		1	11	0	0	0	0	0	Major	accepted_representative
IDAHO TRANSPORTATION DEPARTMENT	IDR10C108	US-20 MP 186.16 TO MP 191.3	PICABO		ID	83348	SWC	1	0	0	0	1	0	0	Minor	accepted_supplemental
INKOM, CITY OF	ID0020249	365 NORTH RAPID CREEK ROAD	INKOM	3	ID	83245	POT	0	50	0	4	1	0	0	Minor	accepted_representative
JEROME, CITY OF	ID0020168	50 NORTH 100 WEST	JEROME	5	ID	83338	BIO POT PRE	1	28	0	1	0	0	0	Major	accepted_supplemental
LEWISTON, CITY OF	ID0022055	900 7TH AVENUE NORTH	LEWISTON	4	ID	83501	PRE POT	2	6	0	0	1	0	0	Major	accepted_supplemental
MACKAY STATE FISH HATCHERY	IDG130030	4848 NORTH 5600 WEST	MACKAY	6	ID	83251		1	5	0	0	0	0	0	Minor	accepted_supplemental

f_name	Program ID	f_street	f_city	State Region	f_state	f_zip	Permit Component	Insp	Viol	SEV	SNC	Inform A	Form A	Penalties	Universe	Select
MOSCOW, CITY OF	ID0021491	2221 WEST PULLMAN ROAD	MOSCOW	4	ID	83843	POT BIO	1	10	0	1	0	0	0	Major	accepted_representative
NORTH IDAHO CORRECTIONAL INSTITUTE	ID0025887	236 RADAR ROAD	COTTONWOOD	4	ID	83522		0	57	0	4	0	0	0	Minor	accepted_representative
PLUMMER, CITY OF	ID0022781	TUTLEX ROAD, ON COEUR D'ALENE RESERVATION	PLUMMER	1	ID	83851	POT	0	13	0	2	0	0	0	Minor	accepted_representative
POCATELLO, CITY OF	ID0021784	10733 NORTH RIO VISTA ROAD	POCATELLO	3	ID	83201	PRE BIO POT	1	4	0	0	1	0	0	Major	accepted_representative
REXBURG, CITY OF	ID0023817	525 NORTH 5TH WEST	REXBURG	6	ID	83440	PRE POT	1	27	0	4	0	1	0	Major	accepted_representative
RIGBY, CITY OF	ID0020010	3930 EAST, 500 NORTH	RIGBY	6	ID	83442	POT	0	19	0	1	0	0	0	Minor	accepted_representative
RIM VIEW TROUT COMPANY	IDG130010	2111A NIAGARA SPRINGS ROAD	WENDELL	5	ID	83355		1	4	0	3	0	0	0	Major	accepted_representative
SANDPOINT, CITY OF	ID0020842	723 SOUTH ELLA STREET	SANDPOINT	1	ID	83864	PRE BIO POT	1	7	0	0	0	0	0	Major	accepted_representative
SOUTH FORK COEUR D ALENE RIVER SEWER DISTRICT	ID0021296	MULLAN WASTEWATER TREATMENT PLANT, 191 MILL ROAD	MULLAN	1	ID	83846	POT	1	3	0	0	1	0	0	Minor	accepted_representative
TENSED, CITY OF	ID0025101	211 C STREET, ON COEUR D'ALENE RESERVATION	TENSED	1	ID	83870	POT	0	3	0	0	1	0	0	Minor	accepted_representative
THE SPIRES LLC	IDR10BK90	TALL TIMBER ROAD, SCHWEITZER MOUNTAIN SKI RESORT	SANDPOINT	1	ID	83864	SWC	0	0	0	0	0	0	12,500	Minor	accepted_representative
US ARMY CORPS OF ENGINEERS - ALBENI FALLS DAM	ID0020681	2376 EAST HIGHWAY 2	OLDTOWN	4	ID	83822		1	18	0	3	0	0	0	Minor	accepted_representative
VILLAGE BUILDERS LLC	IDR10BF09	MEADOW VIEW LANE	TWIN FALLS		ID	83607	SWC	0	0	0	0	0	1	1,300	Minor	accepted_representative
X ROAD DEVELOPMENT INC	IDR10B367	101 HOLIDAY DRIVE	GARDEN VALLEY	2	ID	83622	SWC	0	0	0	0	0	1	86,000	Minor	accepted_representative

## **APPENDIX G: 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.

### **Clean Water Act Program**

Name of State: Idaho

Review Period: FY2009

<b>CWA Metric #</b>	<b>CWA File Review Metric</b>	<b>Metric Value</b>	<b>Fraction</b>	<b>Assessment</b>	<b>Initial Findings and Conclusions</b>
<b>Metric 2b</b>	% of files reviewed where data is accurately reflected in the national data system.	47%	15/32	Area for Regional Improvement (Recommendation Required)	10 facilities with single-event Violations (SEVs) discovered during facility inspections were not entered into ICIS. 1 DMR (pH limits) were entered into ICIS incorrectly. 2 inspection reports were missing. 1 facility with permit limits were not entered into ICIS. 2 facilities was missing an enforcement action in ICIS (NOV). 1 facility was not administratively continued in ICIS.
<b>Metric 4a</b>	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	156%	78/50		



<b>Metric 4b</b>	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements.				
<b>CWA Metric #</b>	<b>CWA File Review Metric</b>	<b>Metric Value</b>	<b>Fraction</b>	<b>Assessment</b>	<b>Initial Findings and Conclusions</b>
<b>Metric 6a</b>	# of inspection reports reviewed.	24			
<b>Metric 6b</b>	% of inspection reports reviewed that are complete.	38%	9/24	Area for Regional Attention	Of the inspection reports reviewed, the majority were mostly complete. However, in many instances individual inspection reports were missing certain specific pieces of information, such as QA signatures, second level signatures, dates, and, in some cases, a summary narrative of the findings during the inspection.
<b>Metric 6c</b>	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	92%	22/24	Meet Program Requirements	Notwithstanding that many individual inspection reports were missing certain specific pieces of information such as second level signatures and dates, the inspection reports were generally sufficient in determining compliance. The review team notes that the Region 10 files were extremely well organized and complete, and contained appropriate and accurate information.
<b>Metric 6d</b>	% of inspection reports reviewed that are timely.	38%	9/24	Area for Regional Attention	45% of the inspection reports reviewed were timely. Some reports were in draft form for months before they were finalized. Inspection reports are expected to be completed and signed no more than 30 days after the on-site inspection is completed. 60 days is allotted for sample inspections.
<b>Metric 7e</b>	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	96%	23/24	Meet Program Requirements	The inspection reports and facility files available to the review team contained sufficient information and documentation to show the actions taken by EPA Region 10, as well as actions taken by facilities in response to EPA NOV and/or COs, returned the facility to compliance.
<b>Metric 8b</b>	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	84%	16/19	Area for Regional Attention	SEVs must be entered into ICIS. The review team noted a pattern of lack of reporting of SEVs and instances where SEVs were also not identified appropriately and accurately.
<b>Metric 8c</b>	% of single event violation(s) identified as SNC that are reported timely.	80%	4/5	Area for Regional Attention	Similar to Metric 8b, SEVs are not only to be accurately identified and entered into ICIS but should be completed in a timely manner. The review team noted a trend in Region 10's handling of SEVs found during onsite inspections where SEVs were either not entered into ICIS at all, or not entered in a timely manner.
<b>Metric 9a</b>	# of enforcement files reviewed	21	21		

<b>Metric 9b</b>	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	4/4	Meet Program Requirements	While the 4 facilities the review team analyzed is a small sample, all of the enforcement responses reviewed returned or will return the facility to compliance. The review team notes the enforcement responses reviewed were complete and encompassed the universe of non-compliance and violations at a facility, even those that were outstanding from previous years.
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<b>CWA Metric #</b>	<b>CWA File Review Metric</b>	<b>Metric Value</b>	<b>Fraction</b>	<b>Assessment</b>	<b>Initial Findings and Conclusions</b>
<b>Metric 9c</b>	% of enforcement responses that have returned or will return a source with non-SNC violations to compliance.	60%	15/25	Area for Regional Improvement (Recommendation Required)	10 facilities the review team analyzed with non-SNC violations were either not addressed with an enforcement response or the enforcement response did not return the facility to compliance. Actions at non-major facilities with issued NOVs were rarely escalated when non-compliance continued.
<b>Metric 10b</b>	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	50%	2/4	Area for Regional Improvement (Recommendation Required)	Though the sample size is low, the review team found that half of Major facilities in SNC were not addressed in a timely manner by an enforcement action. The review team notes the complexity and massive scope of some fo the facilities under review. However, in one instance the review team notes a pattern of significant violations was unaddressed for several years, albeit once action was initiated, it was completed quickly.
<b>Metric 10c</b>	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	4/4	Meet Program Requirements	The 4 facilities the review team analyzed is a small sample. All enforcement responses to SNC violations analyzed by the review team were appropriate and in several instances address violation going back many years. These enforcement actions were comprehensive.
<b>Metric 10d</b>	% of enforcement responses reviewed that appropriately address non-SNC violations.	60%	15/25	Area for Regional Improvement (Recommendation Required)	Non-SNC violations at 10 facilities were either not addressed with an appropriate enforcement response or the enforcement response did not return them to compliance.
<b>Metric 10e</b>	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	70%	16/23	Area for Regional Improvement (Recommendation Required)	Where an enforcement response was taken for non-SNC violations, a significant percentage of time (e.g. 30%) responses were not taken in a timely manner, thus leading to continued non-compliance at a significant number of facilities.
<b>Metric 11a</b>	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	89%	8/9	Meet Program Requirements	The review team notes that Region 10 consistently calculates penalties where appropriate and includes economic and gravity benefit components in their analysis.
<b>Metric 12a</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	78%	7/9	Area for Regional Attention	In 2 instances there were gaps in the documentation in the file pertaining to initial and final penalty calculations.. While the documentation was substantially complete, these gaps resulted in 2 files being deemed incomplete.
<b>Metric 12b</b>	% of enforcement actions with penalties that document collection of penalty.	67%	6/9	Area for Regional Attention	3 of the 9 files reviewed did not include copies of the final checks from the facility.