



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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NOV 21 2014

Ms. Elizabeth Dieck
Director of Environmental Affairs
South Carolina Department of Health
& Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Dear Ms. Dieck:

The Environmental Protection Agency Region 4 would like to thank you and your staff for participating in the State Review Framework (SRF) evaluation of the South Carolina Department of Health and Environmental Control (DHEC) enforcement and compliance program. Region 4 is appreciative of the cooperation and assistance provided by DHEC during the review, and the straightforward communication and collaboration displayed by your staff in working with us throughout the review process.

Please find enclosed the final Round 3 SRF report. This report includes an evaluation of DHEC's enforcement and compliance activities for the RCRA Subtitle C program, the Clean Water Act NPDES program and the Clean Air Act Stationary Source program for federal fiscal year 2012. The report recognizes that DHEC implements effective compliance and enforcement activities in many of the elements evaluated in the SRF, and identifies recommendations for improvement to strengthen performance in ten specific areas. We would also like to take this opportunity to recognize DHEC for the proactive response to recommendations for improvement. We look forward to working with you and your staff as you develop and implement procedures to address the recommendations.

Please extend our thanks to everyone involved for their cooperation in the development of this report. We look forward to continuing the strong partnership that we share with DHEC in our joint efforts to improve the environment for all of our citizens. If you have any questions or concerns regarding the enclosed report, please feel free to contact me or Kelly Sisario, the Enforcement and SRF Coordinator at (404) 562-9054.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Scott Gordon".

J. Scott Gordon
Associate Director
Office of Environmental Accountability

STATE REVIEW FRAMEWORK

South Carolina

**Clean Water Act, Clean Air Act, and
Resource Conservation and Recovery Act
Implementation in Federal Fiscal Year 2012**

**U.S. Environmental Protection Agency
Region 4, Atlanta**

**Final Report
November 21, 2014**

Executive Summary

Introduction

EPA Region 4 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the South Carolina Department of Health and Environmental Control (DHEC).

EPA bases SRF findings on data and file review metrics, and conversations with program management and staff. EPA will track recommended actions from the review in the SRF Tracker and publish reports and recommendations on EPA's ECHO web site.

Areas of Strong Performance

- EPA commends DHEC for meeting inspection goals for CAA and RCRA and for producing inspection reports that are well-written, complete and provide sufficient documentation to determine compliance for CAA and CWA.
- DHEC has implemented procedures that have resulted in improved documentation of economic benefit and adjustments to penalty calculations for CAA and RCRA.

Priority Issues to Address

The following are the top-priority issues affecting the state program's performance:

- DHEC needs to improve the accuracy of data reported in the national data bases of record. Data discrepancies were identified in all three media.

Most Significant CWA-NPDES Program Issues¹

- DHEC needs to improve the accuracy of data reporting in ICIS, including entering Single Event Violation (SEV) codes. Discrepancies between files and Integrated Compliance Information System (ICIS) data were identified in 52% of the files reviewed. To address this issue, DHEC should provide documentation to EPA to show their efforts to address the causes of inaccurate ICIS reporting. EPA will monitor DHEC's efforts through oversight calls and periodic data reviews.

¹ EPA's "National Strategy for Improving Oversight of State Enforcement Performance" identifies the following as significant recurrent issues: "Widespread and persistent data inaccuracy and incompleteness, which make it hard to identify when serious problems exist or to track state actions; routine failure of states to identify and report significant noncompliance; routine failure of states to take timely or appropriate enforcement actions to return violating facilities to compliance, potentially allowing pollution to continue unabated; failure of states to take appropriate penalty actions, which results in ineffective deterrence for noncompliance and an unlevel playing field for companies that do comply; use of enforcement orders to circumvent standards or to extend permits without appropriate notice and comment; and failure to inspect and enforce in some regulated sectors."

- DHEC needs to ensure that inspection commitments, especially for MS4s, industrial stormwater and non-major general permits, are achieved. To address this issue, DHEC should submit a plan to include staffing and oversight to ensure that inspection commitments are achieved. EPA will monitor these efforts through existing oversight calls and other periodic data reviews.
- DHEC needs to improve the timeliness for the completion of inspection reports. To address the issue, DHEC should submit procedures to EPA that ensure the timely completion of inspections reports. EPA will monitor DHEC's efforts through existing oversight calls and other periodic data reviews.
- DHEC's enforcement responses are not timely and do not consistently indicate a return to compliance. To address this issue, DHEC should submit procedures to EPA that ensure timely enforcement responses that ensure a facility's return to compliance. EPA will monitor this through existing oversight calls and other periodic data reviews.
- DHEC's penalty calculations do not consistently include documentation that demonstrate the consideration of economic benefit. To address this issue, DHEC should submit procedures to EPA that ensure the consideration and documentation of economic benefit in penalty calculations. EPA will monitor this through existing oversight calls and periodic file reviews.

Most Significant CAA Stationary Source Program Issues

- DHEC needs to improve the accuracy of Minimum Data Requirements (MDR) data. Discrepancies between files and Air Facility Subsystem (AFS) data were identified in 50% of files reviewed. To address this issue, DHEC should provide documentation to EPA concerning efforts to identify and address the causes of inaccurate MDR reporting. DHEC should also make corrections to existing data.

Most Significant RCRA Subtitle C Program Issues

- DHEC needs to improve the quality of their RCRA inspection reports by including a description of each facility's hazardous management activities in the inspection report. To address this issue, DHEC intends to monitor the quality of the RCRA inspection reports. Following a year of implementation, EPA will evaluate progress towards this goal.
- DHEC needs to improve the identification of RCRA Significant Non-compliers (SNCs) by designating SNC facilities in the national database, RCRAInfo. EPA will monitor the timeliness of DHEC enforcement via bimonthly conference calls and RCRAInfo data analyses.
- DHEC needs to improve enforcement response times in accordance with the RCRA Enforcement Response Policy timelines. EPA will monitor the timeliness of DHEC enforcement via bimonthly conference calls and RCRAInfo data analyses.

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I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act Subtitle C

Reviews cover:

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

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics
- Reviewing facility files and compiling file metrics
- Development of findings and recommendations

EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are reviewed once during each SRF cycle. The first round of SRF reviews began in FY 2004, and the second round began in FY 2009. The third round of reviews began in FY 2013 and will continue through 2017.

II. SRF Review Process

Review period: FY 2012

Key dates: August 19, 2013, letter sent to the State kicking off the Round 3 review

November 4 – 8, 2013, on-site file reviews for CAA and RCRA

November 18 – 22, 2013, on-site file review for CWA

State and EPA key contacts for review:

	South Carolina DHEC	EPA Region 4
SRF Coordinator	Robin Stephens	Kelly Sisario, OEA Branch Chief
CAA	Keith Frost Randy Stewart	Mark Fite, OEA Technical Authority Sydnee Adams, Air and EPCRA Enforcement Branch
CWA	Glen Trofatter	Ronald Mikulak, OEA Technical Authority Richard Elliot, Clean Water Enforcement Branch
RCRA	Rob McDaniel	Shannon Maher, OEA Technical Authority Laurie Benton, RCRA and OPA Enforcement and Compliance Branch

III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on observations made during the data and/or file reviews and may also be informed by:

- Annual data metric reviews conducted since the state’s last SRF review
- Follow-up conversations with state agency personnel
- Review of previous SRF reports, Memoranda of Agreement, or other data sources
- Additional information collected to determine an issue’s severity and root causes

There are three categories of findings:

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Where appropriate, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but it will not monitor these recommendations for completion between SRF reviews. These areas are not highlighted as significant in the executive summary.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the agency is required to address. Recommendations should address root causes. These recommendations must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews in the SRF Tracker.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric:

- **Metric ID Number and Description:** The metric’s SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

Clean Water Act Findings

CWA Element 1 — Data

Finding 1-1 Meets or Exceeds Expectations

Summary The State exceeded National Goals for the entry of key data metrics for major facilities.

Explanation The State exceeded National Goals for the entry of key data metrics (1b1 and 1b2) for major facilities. Issues with data metrics 7a1 (related to Single Event Violations), and 10a1 (related to timely actions as appropriate actions at major facilities) are, however, discussed in Elements 3 and 4.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	1b1 Permit limit rate for major facilities	≥95%	98.3%	156	157	99.4%
	1b2 DMR entry rate for major facilities	≥95%	97.9%	5767	5807	99.3%

State Response

Recommendation

CWA Element 1 — Data

Finding 1-2 Area for State Improvement

Summary The accuracy of data between files reviewed and data reflected in the national data system needs improvement.

Explanation Of the files reviewed, common discrepancies or inconsistencies between Detailed Facility Reports (DFRs) in EPA’s Online Tracking and Information System (OTIS) and the State’s files were related to a facility’s name or address, inspection type, compliance/enforcement dates, or enforcement action taken.

These data accuracy discrepancies could result in inaccurate information being released to the public and potentially hinder EPA’s oversight. Data accuracy was an Area for State Attention during Round 2. Steps taken by the State in response to the Round 2 finding have not fully addressed the issue, so data accuracy remains an issue and is now identified as an Area for State Improvement.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	2b Files reviewed where data are accurately reflected in the national data system	100%		15	31	48%

State Response To address this finding, the State has implemented a quarterly data review to ensure required data elements are accurately reflected in ICIS. This SRF review period, FY 12, was when the State was transmitting data to PCS. There had been on-going data transfer issues between the state system and PCS. In December of 2012, with PCS off line and the State not having the ability to program transfer of data to ICIS, the State began direct entry of data into ICIS as well as the State system (double entry). While only required to enter data on Majors, the State has attempted to continue to enter data on minor facilities. Information now entered into ICIS is entered directly and should be very accurate.

SC has recently installed OpenNode2 for transferring data to the federal data system. Further development of the State’s ability to transfer data from the state EFIS database to the EPA ICIS database will ensure a far more accurate data in the EPA system.

Recommendation DHEC should continue to take the appropriate steps to ensure that data and information are reported accurately. By 4/1/15, DHEC should submit procedures (including staffing and management oversight) to EPA to ensure the accurate reporting of all data into ICIS and to ensure the timely

participation in the annual data verification process. EPA will monitor this effort through oversight calls and other periodic data reviews. If by 10/1/15, these reviews indicate that sufficient improvement in data accuracy is observed, this recommendation will be considered complete.

CWA Element 2 — Inspections

Finding 2-1 Area for State Improvement

Summary The State met or exceeded many of their FY12 Compliance Monitoring Strategy (CMS) Plan and CWA §106 Workplan inspection commitments. Commitments for MS4, industrial stormwater inspections and non-major general permit inspection coverage were, however, not met.

Explanation Element 2 includes metrics that measure planned inspections completed (Metrics 4a1 – 4a10) and inspection coverages (Metrics 5a1, 5b1, and 5b2). The National Goal for this Element is for 100% of state specific CMS Plan commitments to be met.

Under Metrics 4a and 5, the State met or exceeded the FY 12 inspection commitments for Metrics 4a1, 4a2, 4a4, 4a5, 4a9, 4a10, 5a, and 5b1. As noted below, the State did not, however, meet their FY 12 inspection commitments related to MS4, industrial stormwater inspections, and non-major general permit inspection coverage due to FY 12 staffing limitations (as noted in the State’s FY 12 End-of-Year Workplan) that hindered the State’s ability to meet these commitments.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a7 Phase I & II MS4 audits or inspections	100%		2	11	18%
4a8 Industrial storm water inspections	100%		189	209	90%
5b2 Inspection coverage of NPDES non-majors with general permits	100%		63	87	72%

State Response The State has implemented a more robust quarterly review process to ensure inspection commitments are being met.

As noted, military leave and vacancies contributed to the State not meeting these commitments during the review period. Those are not currently an issue and the State should be able to meet all commitments.

Recommendation By 4/1/15, DHEC should submit a plan (including staffing & oversight) to ensure that all inspection commitments can be achieved. EPA will monitor the State’s effort through existing oversight calls and other periodic data reviews. If by 10/1/15, these reviews indicate that the State’s plan to meet inspection commitments appears to be adequate and the plan is being implemented so that the State is meeting its inspection commitments; the recommendation will be considered completed.

CWA Element 2 — Inspections

Finding 2-2 Area for State Improvement

Summary Most of the State’s inspection reports were well written, complete and provided sufficient documentation to determine compliance; however, they were not consistently completed in a timely manner.

Explanation Most of the State’s inspection reports were well written; complete; and included an overview description of the facility, field observations, compliance status, and links to permit requirements when noncompliance was observed.

File Metric 6b addresses inspection reports completed within prescribed timeframes. For this analysis, since the State did not have inspection timelines identified in its NPDES Enforcement Management System (EMS), EPA’s EMS was used as a guide for reviewing the State’s timeliness for the completion of non-sampling reports (within 30 days) and sampling reports (within 45 days). As noted below, 47% of the reports reviewed were completed in a timely manner pursuant to the EMS, while the National Goal is 100%. The average number of days to complete an inspection report was 71 days.

The degree to which the State’s inspection reports were timely was an issue that was raised during Round 2. Steps taken by the State in response to Round 2 have not fully addressed this issue. This Element remains an Area for State Improvement.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6a Inspection reports complete and sufficient to determine compliance at the facility	100%		31	34	91%
6b Inspection reports completed within prescribed timeframe	100%		16	34	47%

State Response

To address this finding, the State has re-emphasized the steps put in place after the SRF Round 2, which had improved inspection timeliness. In addition, the State will ensure new hires are made aware of the importance of meeting inspection time frames.

Timely completion of inspection reports will always be dependent on the current resources, which includes inspection staff, laboratory staff (for sampling inspections), and program review staff.

Recommendation By 4/1/15, DHEC should submit procedures to EPA to ensure the timely completion of inspection reports. EPA will monitor the State's efforts through existing oversight calls and other periodic data reviews. If by 10/1/15, these reviews indicate that the State is timely in completing inspection reports; the recommendation will be considered completed.

CWA Element 3 — Violations

Finding 3-1 Area for State Improvement

Summary

The State identifies and reports Single Event Violations (SEVs) in a timely manner at major facilities as SNC or non-SNC; however, the State did not enter SEV codes into ICIS.

Explanation

The file review supports the State's efforts in identifying (File Metric 8b1) and reporting (File Metric 8c) SEVs at major facilities. However, due to problems with transferring data from the State's Environmental Facility Information System (EFIS) to ICIS; the State did not code majors with SEVs into ICIS in FY 12 (Data Metric 7a1). The upload application from EFIS to PCS/ICIS has apparently had problems with transferring data. The State does identify SEVs in EFIS, but SEVs is a data element that was not included in the data transfer application to send the information to the Federal system. Since entering SEV codes into ICIS would require the double entry of data into State and Federal systems, the SEV codes have not been entered into ICIS.

SEV data entry was an Area for State Attention during Round 2. SEV data entry remains an issue and is now identified as an Area for State Improvement.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a1 Number of major facilities with single event violations			0		
8b Single-event violations accurately identified as SNC or non-SNC	100%		4	4	100%
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		2	2	100%

State Response

As stated, SEVs are documented in EFIS and this was a data transfer issue between EFIS and PCS. When the State began direct (double) entry of data into ICIS in December of 2012, entering SEVs was overlooked. This was an easy fix in that the State now includes entry of SEVs as part of its data entry effort. The development of the State's ability to transfer data from EFIS to ICIS will ensure that this code is correctly entered into ICIS in the future.

Recommendation

By 4/1/15, DHEC should submit to EPA the steps taken or proposed to be taken to ensure entry of SEVs into ICIS. EPA will monitor this effort through oversight calls and other periodic data reviews. If by 10/1/15, these reviews indicate that SEVs are being entered into ICIS; the recommendation will be considered completed.

CWA Element 3 — Violations

Finding 3-2 Meets or Exceeds Expectations

Summary The State’s Inspection Reports documented accurate compliance determinations.

Explanation

Most of the State’s inspection reports were well written; complete; and included an overview description of the facility, field observations, compliance status, and links to permit requirements when noncompliance was observed. While the State’s inspection reports did document compliance determinations, SEVs for majors were not coded into ICIS due to problems in transferring data from EFIS to ICIS, as noted in Finding 3-1.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7e Inspection reports reviewed that led to an accurate compliance determination	100%		30	32	94%

State Response

Recommendation

CWA Element 4 — Enforcement

Finding 4-1 Area for State Improvement

Summary The State’s Enforcement Responses (ERs) were often not timely or appropriate. Additionally, the State’s ERs did not consistently indicate a Return to Compliance (RTC).

Explanation Enforcement Responses (ERs) did not consistently reflect a Return to Compliance (RTC) (File Metric 9a); 13 of 27 files reviewed (48%) reflected ERs that returned or will return a facility to compliance. One area of concern are those situations when Enforcement Referral Memos (ERMs) are forwarded from State Compliance Officers to State Enforcement Officers and responses or resolutions of these referrals were not documented in the State’s file (6 cases). Additionally, even though the State took enforcement action in 11 cases, noncompliance was still evident in the Detailed Facility Report (DFR). In 5 other cases, the State’s ER was not documented in the file.

Data Metric 10a1 documents that none of the State’s 6 major facilities in SNC had timely ERs.

Additionally, the State did not address violations in an appropriate manner (File Metric 10b). Seven of the twenty-five files reviewed (28%) were found to include an ER that was appropriate. Of the remaining 72% of the files reviewed, ERs were not appropriate for the following reasons: no documented follow-up to State ERMs (6 cases); no RTC date for formal actions (6 cases); no ER for Permit/Compliance Schedule Violations (4 cases); no consistent ER escalation (4 cases); no justification for lack of formal actions (4 cases); and no ER documented in the file to address noncompliance (1 case).

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%		13	27	48%
10a1 Major facilities with timely action as appropriate		3.6%	0	6	0.0%
10b Enforcement responses reviewed that address violations in an appropriate manner	100%		7	25	28%

State Response

To address the specific issues identified, the State reviewed its standard procedures and made changes as necessary to improve the enforcement response. A quarterly review process has been implemented to ensure referrals are being addressed and appropriate documentation is made of follow-up activities and justifications for enforcement related actions.

A reduction of over half of the enforcement staff during the FY12 review period had a significant impact on a program as a whole; most of the issues identified here can be attributed to this reduction. The State has since addressed this issue, and the enforcement section is now fully staffed.

Recommendation

By 4/1/15, DHEC should submit its updated procedures to EPA to ensure that ERs are timely and appropriate and reflect a RTC. EPA will monitor the State's efforts through existing oversight calls and other periodic data reviews. If by 10/1/15, these reviews indicate that the revised procedures appear to result in timely/appropriate enforcement responses that reflect a RTC; the recommendation will be considered completed.

CWA Element 5 — Penalties

Finding 5-1 Area for State Improvement

Summary The State does not routinely include documentation in the file that demonstrates the consideration of Economic Benefit (EB) (i.e., the avoided or delayed cost of compliance) in penalty calculations.

Explanation Only one of the eight files reviewed documented the consideration of EB (i.e., avoided cost of compliance). The other seven files contained penalty calculation worksheets that simply noted EB was “not determined” or “not evident,” however, there was no supporting rationale in the record for how these determinations were reached by the State.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		1	8	13%

State Response The State has already begun including an increased level of detail for economic benefit (EB) consideration. Penalty calculation forms are now documenting the rationale for EB whether a benefit can be determined or not.

All staff has been made aware of the importance of justifying the EB consideration. Through multiple levels of peer review, the enforcement officer’s justification will have to hold up to scrutiny and simply stating “not determined” or “not evident” will no longer pass muster.

Recommendation By 4/1/15, DHEC should submit procedures to EPA that demonstrate that penalty calculations will include documentation that considers EB. EPA will monitor the State’s efforts through existing oversight calls and other periodic file reviews. If by 10/1/15, these reviews indicate that the revised procedures are working and the State is documenting the consideration of EB; the recommendation will be considered completed.

CWA Element 5 — Penalties

Finding 5-2 Meets or Exceeds Expectations

Summary The State effectively documents the difference between initial and final penalty amount, the rationale for the penalty, and the collection of the penalty.

Explanation The State effectively documents the difference between initial and final penalty amounts, penalty rationale, and the collection penalties assessed. All files reviewed for these metrics included the appropriate documentation.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	12a Documentation of the difference between initial and final penalty and rationale	100%		8	8	100%
	12b Penalties collected	100%		8	8	100%

State Response

Recommendation

Clean Air Act Findings

CAA Element 1 — Data

Finding 1-1 Meets or Exceeds Expectations

Summary Minimum Data Requirements (MDRs) are entered timely into AFS, and violations are timely and accurately recorded in AFS.

Explanation Data Metrics 3a2, 3b1, 3b2, and 3b3 indicated that DHEC entered MDR data for high priority violations (HPVs), stack tests, compliance monitoring activities, and enforcement actions into AFS within the specified timeframe.

Data Metrics 7b1 and 7b3 indicated that DHEC reports violations associated with notices of violation (NOVs) and HPVs accurately and timely into AFS.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
3a2 Untimely entry of HPV determinations	0		0		0
3b1 Timely reporting of compliance monitoring MDRs	100%	80.0%	638	667	95.7%
3b2 Timely reporting of stack test dates and results	100%	73.1%	173	188	92.0%
3b3 Timely reporting of enforcement MDRs	100%	73.7%	56	58	96.6%
7b1 Violations reported per informal actions	100%	59.7%	30	33	90.9%
7b3 Violations reported per HPV identified	100%	53.4%	7	7	100%

State Response

Recommendation

CAA Element 1 — Data

Finding 1-2 Area for State Improvement

Summary The accuracy of MDR data reported by DHEC into AFS needs improvement. Discrepancies between the files and AFS were identified in half of the files reviewed.

Explanation Metric 2b indicated that 18 of the 36 (50%) files reviewed had all MDRs reported accurately into AFS. The remaining 18 files had one or more discrepancies identified. The majority of inaccuracies related to missing subparts for applicable Maximum Achievable Control Technology (MACT) or New Source Performance Standards (NSPS) regulations in AFS. Another common issue was different NAICS codes in AFS and the permit. Other infrequent differences related to facility name, address, zip, government ownership, pollutants etc. Finally, a few sources had inaccurate activity information entered in AFS (e.g. FCEs, NOVs, penalties, etc.). This incorrect data in AFS could potentially hinder EPA's oversight and targeting efforts or result in inaccurate information being released to the public.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Accurate MDR data in AFS	100%		18	36	50%

State Response South Carolina attributes discrepancies between files and AFS data to multiple program areas maintaining the MDRs for general facility information and subpart data. BAQ involved IT staff to develop a new page in the EFIS data system so that one Program area will be responsible for maintaining the general facility information, NAICS, and subpart MDRs that will be uploaded to AFS.

The incorrect enforcement data entries were due to a personnel change. Management staff immediately saw the importance of cross training and involving more than one staff member to be knowledgeable in inputting, uploading, and maintaining the data.

BAQ has also implemented a more frequent schedule to review and compare the EFIS data system to what has been uploaded to ECHO.

Recommendation By 4/1/15, DHEC should provide documentation to EPA concerning efforts to identify and address the causes of inaccurate MDR reporting. DHEC should also make corrections to existing data to address the discrepancies EPA identified and ensure that in the future, MDRs are accurately entered into ICIS-Air. If by 10/1/15, EPA determines that

DHEC's efforts appear to be adequate to meet the national goal, the recommendation will be considered complete.

CAA Element 2 — Inspections

Finding 2-1 Meets or Exceeds Expectations

Summary DHEC met the negotiated frequency for inspection of sources, reviewed Title V Annual Compliance Certifications, and Full Compliance Evaluations (FCEs) and Compliance Monitoring Reports (CMRs) included all required elements.

Explanation Metrics 5a and 5b indicated that DHEC provided adequate inspection coverage for the major and SM-80 sources during FY12 by ensuring that each major source was inspected at least every 2 years, and each SM-80 source was inspected at least every 5 years. In addition, Metric 5e documented that DHEC reviewed Title V annual compliance certifications submitted by major sources. Finally, Metrics 6a and 6b confirmed that all elements of an FCE and CMR required by the [Clean Air Act Stationary Source Compliance Monitoring Strategy](#) (CMS Guidance) were addressed in all facility files reviewed.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	5a FCE coverage: majors and mega-sites	100%	90.4%	151	159	95.0%
5b FCE coverage: SM-80s	100%	93.4%	210	211	99.5%	
5e Review of Title V annual compliance certifications	100%	81.8%	251	266	94.4%	
6a Documentation of FCE elements	100%		33	33	100%	
6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		33	33	100%	

State Response

Recommendation

CAA Element 3 — Violations

Finding 3-1 Meets or Exceeds Expectations

Summary DHEC made accurate compliance determinations for both HPV and non-HPV violations.

Explanation Metric 7a indicated that DHEC made accurate compliance determinations in 34 of 35 files reviewed (97.1%).

Metric 8a indicated that the HPV discovery rate for majors (2.6%) was below the national average of 4.3%. Two supplemental files were chosen to evaluate this concern; file reviewers concluded that the HPV determinations for both sources were accurate. Metric 8c confirmed that DHEC’s HPV determinations were accurate in 16 of 17 files reviewed (94.1%).

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a Accuracy of compliance determinations	100%		34	35	97%
8a HPV discovery rate at majors		4.3%	7	269	2.6%
8c Accuracy of HPV determinations	100%		16	17	94%

State Response 7a – EPA’s review indicates that the subject violation was identified in an inspection report, but was not reported in AFS. BAQ’s review of AFS indicates that the violation was addressed with a warning letter and reported with a 74 code in AFS on 9/11/12.

8a – Because HPVs are identified for violations that are referred to enforcement, the HPV identification rate is generally beyond the control of enforcement staff. BAQ believes a lower HPV identification rate does not necessarily indicate a problem, but may just as likely indicate a higher compliance rate among major facilities.

8c – EPA’s opinion is that the subject violation may qualify as an HPV under GC7 because VOC/HAP emissions from one source (bond dispensing units) were not reported in a semi-annual report and the limit was taken to avoid MACT. However, facility records subsequently demonstrated that VOC emissions from the bond dispensing unit were 0.11 tons and HAP emissions were 0.05 tons during the reporting period. Because the facility was able to produce records that clearly indicate it did not exceed an emission limit, BAQ’s position is that the violation does not meet the criteria in GC7 because it does not “substantially interfere with determining the sources compliance status with applicable emission limits” as stated in the HPV Policy.

Recommendation

CAA Element 4 — Enforcement

Finding 4-1 Meets or Exceeds Expectations

Summary Enforcement actions bring sources back into compliance within a specified timeframe, and HPVs are addressed in a timely and appropriate manner.

Explanation Metric 9a indicated that all formal enforcement actions reviewed brought sources back into compliance through corrective actions in the order, or compliance was achieved prior to issuance of the order.

Metric 10a indicated that 11 of 13 HPVs (84.6%) were addressed within 270 days, which exceeds the national average of 70.5%. One HPV had an executed order on day 268, but DHEC’s legal office agreed to consider language changes, resulting in a delay. A second involved consultation with EPA about PSD applicability. Based on these unique circumstances, EPA concluded that DHEC addressed HPVs in a timely manner.

Metric 10b indicated that appropriate enforcement action was taken to address all HPVs.

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%		16	16	100%
10a Timely action taken to address HPVs		70.5%	11	13	84.6%
10b Appropriate enforcement responses for HPVs	100%		12	12	100%

State Response BAQ concurs that two HPVs exceeded the 270-day timeline for the reasons EPA stated above.

Recommendation

CAA Element 5 — Penalties

Finding 5-1 Meets or Exceeds Expectations

Summary DHEC considered gravity and economic benefit when calculating penalties; they also documented the collection of penalties and any differences between initial and final penalty assessments.

Explanation Metric 11a indicated that DHEC considered gravity and economic benefit in 15 of 16 penalty calculations reviewed (94%). One case involved operation of a thermal oxidizer at a lower temperature than required for 248 days. This could result in substantial savings (i.e. cost of natural gas), but economic benefit was set at zero.

DHEC could not produce the economic benefit calculations for a case with economic benefit in the penalty, advising that staff was told during an EPA training course that economic benefit calculations should not be maintained in the file. This direction is contrary to EPA’s [Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework from State/EPA Enforcement Agreements](#), which provides that “State and local recordkeeping should include documentation of the penalty sought, including the calculation of economic benefit where appropriate. It is important that accurate and complete documentation of economic benefit calculations be maintained to support defensibility in court....” EPA recommends that DHEC maintain economic benefit estimates in the file for all future penalty calculations. DHEC provided sample calculations and noted that the BEN model is typically used to calculate economic benefit.

Metric 12a indicated that 15 of 16 penalty calculations reviewed (94%) documented any difference between the initial and the final penalty assessed. In addition, Metric 12b confirmed that documentation of all penalty payments made by sources was included in the file.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a Penalty calculations include gravity and economic benefit	100%		15	16	94%
12a Documentation on difference between initial and final penalty	100%		15	16	94%
12b Penalties collected	100%		16	16	100%

State Response 11a – BAQ considered economic benefit in the subject penalty calculation; however, the conclusion was that there was no significant economic benefit gained from operating the thermal oxidizer at the lower temperature. BAQ enforcement staff will continue to review economic

benefit in each case and take EPA's comments into consideration during future reviews.

11a – As EPA states, BAQ did not produce the BEN calculation that was used to calculate economic benefit in the subject case file. However, the penalty calculation worksheet that was provided contains an explanation of how the economic benefit calculation of \$24,204.00 was derived. BAQ's position is that this issue needs further discussion to ensure EPA's comments are consistent with current EPA policy and consider the limitations that state open records laws will have on BEN calculations.

12a – BAQ concurs that one penalty calculation did not document the difference between the initial and final penalty. The facility submitted financial information that demonstrated an inability to pay the assessed penalty which was reduced as a result. The order documented the rationale, but the penalty calculation sheet did not reflect the rationale for the reduction.

Recommendation

Resource Conservation and Recovery Act Findings

RCRA Element 1 — Data

Finding 1-1 Area for State Attention

Summary During the SRF evaluation, 43% of files were identified with data inaccuracies.

Explanation During the SRF file review, information in the facility files was checked for accuracy with the information in the national database, RCRAInfo. There were inaccuracies in 13 of the 30 files (43%). The primary concern was the disposition of violations from the initial inspection report through the formal enforcement process, and the documentation of a return to compliance. Violations were often dropped or added during this process without an explanation in the file. The missing information has a cascading effect on other findings in this report. This is a continuing problem that was identified in the last South Carolina SRF review.

Immediately following the RCRA SRF file review, the state implemented a Violation Adjustment Tracker to track any changes to the violations in the formal enforcement process. This is a manual tracker, and SCDHEC hopes later to implement electronic tracking through their EFIS database, a state system for data management in the Bureau of Land & Waste Management. The state has made considerable improvement regarding this concern prior to issuing the SRF report, so this element is considered an Area for State Attention.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Complete and accurate entry of mandatory data			17	30	57%

State Response SCDHEC is continuing to use the Violation Adjustment Tracker (Excel spreadsheet) to monitor changes in violations through the enforcement process. In addition to the Violation Adjustment Tracker, changes in CEI report draft reviews have enabled us to ensure that the alleged violations are correctly cited in the report. We are evaluating what changes would need to be implemented in EFIS to allow tracking of changes to violations.

Recommendation

RCRA Element 2 — Inspections

Finding 2-1 Meets or Exceeds Expectations

Summary South Carolina met national goals for TSD and LQG inspections, and the majority of inspection reports were complete and finalized in a timely manner.

Explanation Element 2 measures three types of required inspection coverage that are outlined in the EPA RCRA Compliance Monitoring Strategy: (1) 100% coverage of operating Treatment Storage Disposal (TSD) facilities over a two-year period, (2) 20% coverage of Large Quantity Generators (LQGs) every year, and (3) 100% coverage of LQGs every five years.

In the FY2012 data metrics, it indicated that one TSD inspection had been missed. In actuality, the facility was a new TSD that only began operations in FY2013, so the TSD inspection coverage was complete in FY2012. The five year inspection coverage of 94.8% was near enough to the national goal of 100% coverage to allow for fluctuation of LQG status over the five years.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	5a Two-year inspection coverage of operating TSDFs	100%	88.9%	14	15	93.3%
	5b Annual inspection coverage of LQGs	20%	21.7%	69	230	30.0%
	5c Five-year inspection coverage of LQGs	100%	64.2%	218	230	94.8%

State Response SCDHEC has continued to make improvements in our inspections of TSDs and LQGs. The SCDHEC RCRA Hazardous Waste Inspection Protocol for FY 2015 is designed to ensure that the Department will meet or exceed the number of inspections required for FY2015.

Recommendation

RCRA Element 2 — Inspections

Finding 2-2 Area for State Improvement

Summary Several RCRA inspection reports were missing basic information regarding facility hazardous waste management activities.

Explanation During the SRF file review, 30 inspection reports were evaluated for completeness and sufficiency to determine compliance. It was found that 73% of the inspection reports met this standard. There were eight inspection reports that were missing basic information describing the hazardous waste management activities at the facilities. This is a continuing problem identified in the last SRF RCRA evaluation, and therefore is considered an Area for State Improvement.

In October 2011, the state developed a *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012*. Consistent implementation of the *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012* would address the concern identified above. Following their recent reorganization, the Division of Compliance & Enforcement intends to update and monitor the implementation of the protocol. The recommendation below will allow a full year of implementation before evaluating the implementation of the protocol.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6a Inspection reports complete and sufficient to determine compliance	100%		22	30	73%

State Response

The SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2015 stresses the need to define the hazardous waste management activities at a facility within the CEI report. The protocol was initially implemented in FY2012 version and updated in the FY2013 and FY2014 versions. The FY2015 protocol provides a template for inspectors to use in developing the report. In addition, the Department has developed training for inspectors and compliance staff on the hazardous waste inspection process and report writing. This is a priority item for FY2015.

Recommendation

After the end of FY 2015, EPA will review a sample of inspection reports to assess the completeness and sufficiency of the reports. If by December 2015, sufficient improvement is observed, this recommendation will be considered complete.

RCRA Element 2 — Inspections

Finding 2-3

Area for State Attention

Summary

The majority of the inspection reports met the SCDHEC goal for timely completion.

Explanation

In October 2011, the state developed a *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012*. The protocol included a goal of 45 days for the final inspection report to be sent to the facility. Approximately 73% of the reports met this goal. However, with the exception of one outlier (a complex inspection/investigation), the average completion time for inspection reports was 30 days which is well within the 45 day goal for report completion. There were seven reports that were only overdue by 3 to 10 days.

Along with the recommendation above, consistent implementation of the *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012* would address any timeliness concerns. Following their recent reorganization, the Division of Compliance & Enforcement intends to update and monitor the implementation of the protocol. For these reasons, this is considered an Area for State Attention without further oversight by EPA.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6b Timeliness of inspection report completion	100%		22	30	73%

State Response

SCDHEC continues to stress the importance of timely inspection reports. In some cases, reports have exceeded the SCDHEC internal 45-day goal because EPA Region 4 did not provide its report within our time frame; we were waiting on additional information from the facility; or we were waiting on analytical data. We hope that EPA Region 4 and the Department can work towards streamlining the inspection process to ensure reports are completed within the 45-day goal and in parallel.

Recommendation

RCRA Element 3 — Violations

Finding 3-1 Area for State Attention

Summary The documentation of compliance determinations was not complete in the files reviewed.

Explanation During the file review, EPA was unable to assess if the state was making accurate compliance determinations in 23% of the files (6 of 26 files) due to missing documentation. As mentioned in Element 1 (Data Accuracy), there was often no record of the disposition of violations throughout the enforcement process and return to compliance. Without this information, EPA was unable to assess the accuracy of the compliance determinations for six of the files. This issue is being addressed by the quick implementation of the Violation Adjustment Tracker that was effected immediately following the SRF file review in November 2013. It is included here as an Area for State Attention so the state will continue the progress on implementation.

Data metric 2a listed seven facilities as long-standing RCRA secondary violators. Upon review, all seven facilities had either been elevated to SNC status or referred to EPA for enforcement, so unaddressed long-standing violations is not a concern.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	2a Long-standing secondary violators			7		7
	7a Accurate compliance determinations	100%		20	26	77%

State Response SCDHEC has instituted a Violation Adjustment Tracker that documents changes in violations from the CEI to the final enforcement order. In addition, we are striving to ensure that secondary violators have returned to compliance before 240 days from the inspection; if not, the facility will be upgraded to a significant non-complier in RCRAInfo.

Recommendation

RCRA Element 3 — Violations

Finding 3-2 Area for State Improvement

Summary The state did not designate several SNCs in the national database according to the RCRA ERP.

Explanation In the file review there were five of 16 facilities (31% of the files) where SNC violations existed, but the facility had not been designated as a SNC in RCRAInfo as required by the RCRA ERP. However, appropriate formal enforcement response had been taken by the state at all five facilities. Since the data entry procedures for SNCs are not included in the *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012*, this appears to be an oversight. It is recommended that protocol be updated to include data entry procedures for SNC facilities. It is recommended that the state update the *SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2012* to include procedures for SNC entry into RCRAInfo.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
8b Timeliness of SNC determinations	100%	78.8%	2	2	100%
8c Appropriate SNC determinations	100%		11	16	68.8%

State Response SCDHEC intends to make the formal designation of a SNC by no later than 150 days from the inspection date. We concur that this should be addressed in the SCDHEC RCRA Hazardous Waste Inspection Protocol and will include SNC determination in the FY2015 version. In addition, we have addressed SNC determination in the SCDHEC RCRA Hazardous Waste Enforcement Project Management Checklist. These steps alone do not fully ensure the coding is being entered in RCRAInfo. As a result, Enforcement staff have received additional training in making SNC determinations and SNC coding procedures in RCRAInfo. Further, we will conduct monthly audits of on-going cases to ensure that the SNC designation is entered.

Recommendation EPA will monitor progress via bimonthly conference calls and RCRAInfo data analyses. EPA will close this recommendation after observing four consecutive quarters of performance that meets national goals.

RCRA Element 4 — Enforcement

Finding 4-1 Meets or Exceeds Expectations

Summary The state takes appropriate enforcement to address violations.

Explanation 100% of the files reviewed had the appropriate enforcement response to address RCRA Secondary Violators or Significant Non-Compliers.

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	10b Appropriate enforcement taken to address violations	100%		21	21	100%

State Response SCDHEC will continue to strive to meet this goal through continued emphasis on staff training and management oversight on the EPA Enforcement Response Policy and the Department's policies, protocols and checklists.

Recommendation

RCRA Element 4 — Enforcement

Finding 4-2 Area for State Attention

Summary The majority of the enforcement actions had documentation that the violating facilities had returned to compliance.

Explanation Of the 21 files reviewed, 19 included enforcement actions to return the violating facility to compliance. This includes both informal and formal enforcement. In many instances, SNC facilities returned to full compliance prior to issuance of the final consent orders. There were two facilities that did not document compliance with the final consent orders. The documentation of facility compliance is a concern that is already being addressed by the recommendation under Element 1 (Data Accuracy).

Relevant metrics	Metric ID Number and Description	Natl	Natl	State	State	State
		Goal	Avg	N	D	% or #
	9a Enforcement that returns violators to compliance	100%		19	21	91%

State Response SCDHEC will improve management oversight and staff training to ensure that violations are returned to compliance in RCRAInfo. The requirement to update RCRAInfo on returning violations to compliance is included in the SCDHEC RCRA Hazardous Waste Enforcement Project Management Checklist. In addition, management is conducting monthly project management audits to ensure coding compliance. Further, Enforcement staff have received refresher training on RCRAInfo coding.

Recommendation

RCRA Element 4 — Enforcement

Finding 4-3 Area for State Improvement

Summary Many SNC facilities were not addressed in a timely manner with formal enforcement actions.

Explanation Metric 10a shows that the state was not consistently taking timely enforcement actions. Initially, Data Metric 10a had showed that 100% of the FY 2012 cases (2 of 2) met the timeliness criteria. However, during the file review it was found that there were actually 14 cases that settled in FY 2012. Only five of the cases (35.7%) were resolved within 360 days.

This was also an Area for State Improvement in Round 2 of the RCRA SRF. There was incremental improvement in the South Carolina enforcement response times following the review. However, in the SRF Round 3 evaluation the majority of the enforcement cases exceeded the RCRA Enforcement Response Policy timelines. This may be attributed, in part, to a restructuring of the Enforcement & Compliance Section.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
10a Timely enforcement taken to address SNC	80%	78.7%	5	14	35.7%

State Response

Our lengthy response time for SNC facilities was due mainly to the following:

1. Multi-media enforcement actions;
2. Delays in obtaining CEI reports from EPA Region 4 when the inspections were jointly done;
3. Intense legal involvement in settling a Consent Order; and/or,
4. Delays waiting for information or analytical data from the facility.

The SCDHEC RCRA Hazardous Waste Inspection Protocol for FY2015 stresses the timely and complete development of CEI Reports. We have been working directly with EPA Region 4 to limit its involvement in report writing to only review/input on inspections where SCDHEC is the lead. Our intent is to meet or exceed the 45-day goal for CEI report.

The SCDHEC RCRA Hazardous Waste Enforcement Project Management Checklist sets standards for the timely development of Notice of Alleged Violations and holding of Enforcement Conference to the development of Warning Letters, Consent Orders and Administrative Orders. The overall goal of this approach is to return violations to compliance within the established RCRA Enforcement Response Policy.

SCDHEC is considering changes to our protocol that better defines and communicates the negotiation period for Consent Orders. If a signed Consent Order cannot be reached within a specified time frame, SCDHEC will proceed with an Administrative Order.

The implementation of this system changes started in full on October 1, 2014. Our expectation is that the timeliness for enforcement actions will significantly improve through the revamped protocol and checklist and careful management oversight of our compliance and enforcement actions. The Division of Compliance and Enforcement will conduct monthly audits to measure our effectiveness.

Recommendation

EPA will monitor the timeliness of South Carolina enforcement, in accordance with the timelines in the RCRA ERP, via bimonthly conference calls and RCRAInfo data analyses. EPA will close this recommendation after observing four consecutive quarters of performance that meets national goals.

RCRA Element 5 — Penalties

Finding 5-1 Area for State Attention

Summary South Carolina has implemented procedures to better document economic benefit in penalty calculations and any adjustments to penalty calculations.

Explanation Since the SRF Round 2 report, South Carolina has made substantial progress on the documentation of penalty calculations, the economic benefit of noncompliance, and adjustments between initial and final penalties. In the SFR Round 3 evaluation, a total of 16 penalty calculations were reviewed, and all included the equivalent of a gravity component in the penalty calculation.

For economic benefit, seven enforcement cases included economic benefit and the supporting documentation for the rationale (including BEN calculations, where appropriate). There were nine penalty calculations that included a statement to the effect that the economic benefit was not applicable in the case. Based on a review of the files, EPA agreed that economic benefit was not applicable, however there was no supporting rationale in the record for how these determinations were reached by the state. It was recommended that even if economic benefit is determined to be nonexistent or *de minimus* (e.g., labeling violations, inspection records, etc.), the rationale for that decision should be included in the penalty calculation. South Carolina also documents the rationale for any adjustments from the initial to final penalty amounts. During the file review, it was found that 12 of the 15 files (80%) had the appropriate documentation for penalty adjustments. One additional facility was being handled in civil judicial court, so there is no final penalty calculation for that case.

South Carolina has made noteworthy progress on the documentation of penalty calculations since the SRF Round 2 evaluation. The omission of the final details between initial and final penalty adjustments appeared to be more of the exception than the rule. The state has agreed to maintain complete penalty documentation from this point on, so this is considered an Area for State Attention without further oversight by EPA.

In 100% of the files reviewed, there was evidence that South Carolina collected penalties, or were in the process of seeking collection of penalties from enforcement actions.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	11a Penalty calculations include gravity and economic benefit	100%		7	16	44%
	12a Documentation on difference between initial and final penalty	100%		12	15	80%
	12b Penalties collected	100%		15	15	100%

State Response SCDHEC is working hard to ensure that penalties are fair and consistent. We are using the BEN Model to assist us in determining economic benefit and apply it in our civil penalty calculations. SCDHEC has continued to stress to staff the need to better document rationale for penalties, even in cases where economic benefit is non-existent or minimal. Furthermore, we are tracking changes in the civil penalty through the negotiation of Consent Orders.

Recommendation