

# **STATE REVIEW FRAMEWORK**

## **Oklahoma**

### **Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act Implementation in Federal Fiscal Year 2013**

**U.S. Environmental Protection Agency  
Region 6, Dallas**

**Final Report  
May 15, 2015**

# Executive Summary

## Introduction

EPA Region 6 enforcement staff conducted a State Review Framework (SRF) enforcement program oversight review of the Oklahoma Department of Environmental Quality (ODEQ).

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

### Clean Water Act

- ODEQ is doing a good job of identifying, quantifying and addressing significant noncompliance (SNC) and non-SNC violations at Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) Major and non-Major facilities. Category 1 and Category 2 violations at non-Majors were evaluated during the preliminary data review. The Region reviewed 36 files and the results for all three categories of violations were 100% for accuracy of compliance determinations, 100% Single Event Violations (SEVs) accurately identified as SNC or non-SNC at major facilities, and 100% SEVs identified as SNC reported timely at major facilities. The file review results for enforcement indicated 100% of the files reviewed had responses that returned, or will return, a source in violation to compliance and enforcement responses indicating that ODEQ addressed the violations in an appropriate manner.
- Impaired Waters: The Region reviewed a total of 22 files with impaired waters and under a Total Maximum Daily Load (TMDL). Fifteen (15) Major facilities and seven (7) non-Majors were evaluated during ODEQ's file review. The permit component of the facilities were 6 Publically Owned Treatment Works (POTWs); 12 Biosolids, POTW, and Pretreatment combined; 3 Industrial; and 1 general discharge facility. In FY 2013, ODEQ conducted inspections on all of the facilities and the inspection reports were reviewed during the file review. SEVs for Majors, both SNC and non-SNC were identified, addressed, and entered into the national database. Only three of the Major facilities reviewed were SNC in FY 2013 and 2 of the non-Majors had category 1 violations. ODEQ issued formal and/or informal enforcement action to address the violations for all of the facilities reviewed and four (4) of the impaired water facilities received a penalty order.

### Clean Air Act

- As noted in the Round 2 SRF, ODEQ's Air Quality Division developed and implemented an Alternate Enforcement Procedure as a tool to address violations expeditiously. If the facility stipulates to the violation(s) and submits a compliance plan then enforcement proceeds. In the event of a Level 1 violation (which includes HPV), settlement is

negotiated through a Consent Order, which is a bilateral agreement that includes an appropriate penalty. In cases with Level 2 or Level 3 violations the compliance plan is tracked until completion, whereupon the case is resolved. This process saves ODEQ time and resources, notifies the facility of compliance issues sooner, and reduces contentiousness associated with traditional enforcement documents.

- The Air Quality Division utilizes its TEAM database to track facility compliance and enforcement. This database is a useful tool in managing and maintaining documents, as well as, a useful tool for ensuring timely and accurate data is entered in AFS.

#### Resource Conservation and Recovery Act

- ODEQ strives to meet or exceed all of its inspection and enforcement commitments in accordance with EPA's RCRA Compliance Monitoring Strategy (CMS); EPA's National Program Manager (NPM) Guidance, EPA's RCRA Enforcement Response Policy, and the ODEQ Focus Document. ODEQ's RCRA staff has on-going communications with EPA Region 6's compliance and enforcement staff to ensure that all national priorities are addressed.
- ODEQ Land Protection Division (LPD) uses detailed universe specific inspection checklists (e.g., TSDF, LQG) that contain carbon copies. The inspector leaves a copy of the findings with the facility at the time of the inspection which has proven to be efficient in facilities returning to compliance more quickly.
- ODEQ's enforcement priority was to maintain a high rate of compliance in accordance with the US EPA Hazardous Waste Civil Enforcement Response Policy (December 2003) by taking timely, visible and appropriate enforcement. ODEQ focused on the most environmentally significant handlers, promoting pollution prevention and encouraging a holistic view of compliance.

### **Priority Issues to Address**

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

#### Clean Water Act

- ODEQ is not entering the minimum data requirements (MDRs) into the national database (ICIS-NPDES) for CWA inspections conducted on NPDES Major facilities; inspection data for NPDES non-Major facilities with individual permits; enforcement and compliance schedule data for 92-500 (construction grants) NPDES non-majors; and permit and facility data elements for CWA non-Major general permits.

Recommendation: (1) ODEQ is encouraged to immediately begin to enter all inspections performed at major facilities into the national database (ICIS-NPDES); (2) Facility and Permit minimum data requirements (MDRs) for all universes should be entered into ICIS-NPDES; and (3) NPDES-Non-Majors with individual permits inspection data

should be entered into ICIS-NPDES; and enforcement actions and compliance schedule data for 92-500 construction grant permits should be entered into (ICIS-NPDES).

## **Most Significant CWA-NPDES Program Issues<sup>1</sup>**

- ODEQ is currently not entering all of the required data into the national database (ICIS-NPDES) for compliance monitoring and enforcement activities for CWA NPDES Major and non-Major facilities. ODEQ reported they are currently working on getting their own in-house database, NPDES Management System (NMS), up and running for Industrial and Municipal PDES permit, tracking, compliance, and enforcement. ODEQ is still doing clean up on the permits and having their contractor fix issues with the Permit, Discharge Monitoring Report (DMR), and tracking in NMS. Testing is close to complete. ODEQ is in the process of updating NMS to accept enforcement and compliance entry, but is still in the beginning phase of developing a workable database that supports both ODEQ and EPA's requirements. Stormwater construction and Stormwater industrial permits are being actively entered into NMS and are now the live database. ODEQ has an eDMR system, but it is still in the test phase and is only being utilized by their pilot systems.

### **Recommendations:**

- (1) The Region supports and encourages ODEQ to make the eDMR system and a workable State database that supports and/or is compatible with the national database (ICIS-NPDES) a high priority so that ODEQ's high level of inspection and enforcement activities can be more accurately and completely reflected in the national data system.
- (2) ODEQ should immediately begin to enter all inspections conducted on CWA NPDES Major Facilities into ICIS-NPDES;
- (3) Inspection, enforcement, and compliance schedule data for CWA NPDES non-Majors should be entered into ICIS-NPDES;
- (4) Facility and permit data elements for active CWA NPDES non-Majors with general permits listed in ODEQ's data base should be entered into ICIS-NPDES; and
- (5) ODEQ should continue the preparations to enter storm water and other inspections and enforcement activities into the national database.

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<sup>1</sup> 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."

## **Most Significant CAA Stationary Source Program Issues**

- EPA encourages ODEQ to ensure that all applicable air programs and/or subpart information for each facility are correct in ICIS Air.

### **Recommendation:**

- (1) ODEQ shall evaluate its guidelines on when to update ICIS Air with program information and determine if any improvements need to be made.
  - (2) Within 90 days from the date of the final SRF report, ODEQ shall complete an evaluation of its guidelines and practices as it relates to the updating the current database, ICIS Air, with program information and determine if any improvements need to be made.
  - (3) Within 30 days after ODEQ completes its review, ODEQ shall provide to EPA Region 6 a copy of its written guidelines if any on when to review and/or update facility records with program information in ICIS Air.
- ODEQ shall work towards improving its timeliness in entering and addressing High Priority Violators (HPVs). EPA considers timely and accurate reporting into ICIS Air critical to EPA's oversight role regarding CAA violations.

### **Recommendation:**

- (1) Upon receipt of the final SRF report, ODEQ shall immediately review and implement the 2014 HPV policy dated August 25, 2014.
- (2) ODEQ shall determine if any updates to its written guidelines are needed to meet the requirements of the 2014 HPV policy, and document changes made, if any, which would result in timely HPV entries. Within 180 days of the final SRF report, ODEQ shall provide to EPA Region 6 its updated practices and outline the changes that were made which would result in timely HPV entries.
- (3) ODEQ shall advise EPA on bi-monthly calls if an HPV will not be addressed on or before 180 days from Day Zero.
- (4) ODEQ shall develop a Case Management Plan for HPVs that will not be addressed within 180 days from Day Zero and document its milestones in its TEAM database. The Case Management Plan should be available at EPA's request.

## **Most Significant RCRA Subtitle C Program Issues**

- None at this time.

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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 violators (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 every five years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2017.

## II. SRF Review Process

**Review period:** FY 2013

**Key dates:**

- Kickoff letter/Meeting: February 26, 2014 (EPA and ODEQ chose to conduct the SRF Round 3 kickoff process via e-mail correspondence)
- Data metric analysis and file selection sent to state for CWA, CAA, RCRA: March 11, 2014
- On-site File review conducted: March 31– April 3, 2014 (CWA), April 14 – 17, 2014 (CAA), April 14 – 17, 2014 (RCRA)
- Draft Report sent to state: December 3, 2014
- Report Finalized: May 11, 2015

**State and EPA key contacts for review:**

Clean Water Act

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Clean Air Act

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### III. SRF Findings

Findings represent EPA’s conclusions regarding state performance and are based on findings 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 an 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																														
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>																													
<b>Summary</b>	ODEQ's permit limits and DMR data entry rates for CWA NPDES Major and non-Major facilities in the national database (ICIS-NPDES) meet the defined goals and exceed the national averages.																													
<b>Explanation</b>	<p>1b1: ODEQ's data entry of permit limit rates for CWA NPDES majors in FY 2013 is 100% and meets the defined goal of more than 95% and exceeds the national average of 98.4%.</p> <p>1b2: The DMR data entry rate for CWA NPDES Majors by ODEQ (99.80%) meets the defined goal of more than 95% and exceeds the national average of 97.1%.</p> <p>ODEQ's data entry rate of permit limits for non-Major facilities (99.5%) exceed the National average of 68.80%.</p> <p>ODEQ's DMR data entry rate for non-Major facilities (99%) exceeds the National average of 80.60%.</p> <p>8c: 100% (21 of 21) files reviewed had SEVs identified as SNC reported timely at major facilities. The SEVs were linked in ICIS to warning letters issued for violations from an inspection.</p>																													
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>1b1 Permit limit rate for major facilities</td> <td>&gt;95%</td> <td>98.4%</td> <td>106</td> <td>106</td> <td>100%</td> </tr> <tr> <td>1b2 DMR entry rate for major facilities</td> <td>&gt;95%</td> <td>97.1%</td> <td>3228</td> <td>3235</td> <td>99.8%</td> </tr> <tr> <td>8c Percentage of SEVs identified as SNC reported timely at major facilities</td> <td>100%</td> <td></td> <td>21</td> <td>21</td> <td>100%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	1b1 Permit limit rate for major facilities	>95%	98.4%	106	106	100%	1b2 DMR entry rate for major facilities	>95%	97.1%	3228	3235	99.8%	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		21	21	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																									
1b1 Permit limit rate for major facilities	>95%	98.4%	106	106	100%																									
1b2 DMR entry rate for major facilities	>95%	97.1%	3228	3235	99.8%																									
8c Percentage of SEVs identified as SNC reported timely at major facilities	100%		21	21	100%																									
<b>State response</b>	No Response Needed																													
<b>Recommendation</b>	None																													

## CWA Element 1 — Data

Finding 1-2	Area for State Improvement
<b>Summary</b>	ODEQ did not enter into the national database of record, ICIS-NPDES, CWA inspection data for 13 NPDES Major facilities; inspection data for approximately 242 NPDES non-Major facilities; enforcement and/or compliance schedule data for thirty-four (34) 92-500 construction grant non-Major facilities; and permit and facility data elements for 116 CWA non-Major general permits.
<b>Explanation</b>	<p>2b: Only 11 of 40 files reviewed for ODEQ had all of the required compliance monitoring and enforcement data entered into the national database (ICIS-NPDES) for inspection and enforcement activity conducted by ODEQ for FY 2013.</p> <p>ODEQ did not enter facility and permit data for the non-major general permit universes into ICIS-NPDES. Permit and facility minimum data requirements (MDRs) are required to be in ICIS for all facility universes.</p> <p>5a1: Additional follow-up inspections conducted on 13 of 36 major facilities were found in the files that were not in ICIS. ODEQ only enters compliance evaluation inspections (CEIs) conducted on CWA NPDES Majors into ICIS-NPDES.</p> <p>5b1: ODEQ reported 738 inspections for NPDES Non-majors with individual permits listed in ODEQ's database but the inspections were not entered into ICIS-NPDES.</p> <p>5b2: ODEQ reported 116 inspections for NPDES Non-majors with general permits listed in ODEQ's database but the inspections were not entered into ICIS-NPDES.</p> <p>7f1 &amp; 7g1: ODEQ provided a state database list of 75 construction grant (92-500) facilities. 23 of the 75 facilities were issued enforcement actions (25 formal actions and 11 informal actions) in FY 2013. ODEQ did not enter the required enforcement data into ICIS-NPDES for the 92-500 construction grant facilities that received an enforcement action in FY 2013.</p> <p>The 106 and 604b grant priority (Oklahoma FOCUS) document for FY 2013 requires ODEQ to input all required information into ICIS with a</p>

goal of 99%. ODEQ did not meet the ICIS data entry goal for inspection and other enforcement data.

**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	95%		11	40	27.5%
5a1 Inspection coverage of NPDES majors			93	106	87.7%
5b1 Inspection coverage of NPDES non-majors with individual permits			0	365	0%
5b2 Inspection coverage of NPDES non-majors with general permits			0	277	0%
7f1 Non-major facilities in Category 1 noncompliance					120
7g1 Non-major facilities in Category 2 noncompliance					137

**State response**

EPA made the recommendation for ODEQ to immediately begin entering all inspection data for major facilities in ICIS-NPDES. This is based on the finding that follow-up inspections at 13 of 36 major facilities whose files were reviewed by EPA were not entered into ICIS-NPDES. Previous guidance from EPA to ODES had been that only inspections containing all the elements of a Compliance Evaluation Inspection (CEI) should be included in ICIS-NPDES since only CEIs or their equivalent are used to evaluate inspection coverage. These routine follow-up inspections referenced by EPA were not CEIs. When providing inspection data to EPA as part of the SRF data metrics, ODEQ has tried to differentiate CEIs from routine inspections, since, as noted above, the two types of inspection are not treated the same with respect to inspection coverage and grant commitments. As noted, ODEQ will continue its efforts to enter all CEIs into ICIS-NPDES in a timely manner. If and when additional manpower allows, ODEQ will explore options to enter routine (non-CEI) inspections into ICIS-NPDES.

**Recommendation**

(1) ODEQ shall make the eDMR system and a workable database that supports and/or is compatible with the national database (ICIS-NPDES) a high priority so that ODEQ’s high level of inspection and enforcement activities can be more accurately and completely reflected in the national data system (ICIS-NPDES);

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- (2) Beginning Federal fiscal Year (FY 2015) and lasting until ODEQ's computer system projects are completed, ODEQ shall submit a yearly progress report to EPA Region 6 Water Enforcement Branch by September 30th each year. The report shall provide the current status of the State's eDMR system and workable database that supports and/or is compatible with ICIS-NPDES;
  - (3) Beginning FY 2015, ODEQ shall immediately begin to enter all inspections conducted on CWA NPDES major facilities into ICIS-NPDES;
  - (4) Beginning FY 2015, ODEQ shall begin to enter CWA NPDES inspection for non-Majors with individual permits and enforcement, and compliance schedule data for 92-500 construction grant non-major facilities into ICIS-NPDES.
  - (5) Beginning FY 2015, required facility and permit data elements for all active CWA NPDES non-Majors with general permits (currently 116) listed in ODEQ's database shall be entered into ICIS-NPDES; and
  - (6) ODEQ shall continue preparations to enter stormwater and other wet-weather related inspection and enforcement activities into the national database (ICIS-NPDES).
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## CWA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>
<b>Summary</b>	<p>ODEQ’s inspection coverage at NPDES Majors, NPDES non-Majors and NPDES non-major general meets expectation; ODEQ met the inspection commitments as stated in the 106 604b grant priorities (FY 2013 Oklahoma FOCUS document); and the inspections file review results meets the goal of 100% for completeness and sufficiency to determine compliance at a source.</p>
<b>Explanation</b>	<p>The 106 604b grant priorities, Oklahoma FOCUS document, inspection commitments were: Perform compliance or sampling inspections by June 30, 2013, at each major facility; Conduct an estimate of 80 technical site visits or inspections for storm water facilities; Perform a minimum of 22 pretreatment compliance inspections and 5 audits; and conduct an estimate of 400 site visits or inspections to help wastewater facilities maintain compliance.</p> <p>ODEQ reported the information below on the CWA Metric 4a:</p> <p>4a1 Pretreatment compliance inspection and audits: 27 4a2: Significant industrial User (SIU) Inspections for SIUs discharging to non-authorized POTWS: 20 4a5: SSO Inspections: 167 4a7: Phase I and II MS4 audits or inspections: 3 4a8: Industrial stormwater inspections: 57 4a9: Phase I and II construction stormwater inspections: 1042</p> <p>5a1: ODEQ inspected 100% of the major universe (103). ODEQ’s fiscal year (FY) is July to June and the federal FY is October to September, which caused a difference in reporting values for the number of inspections completed on the data metrics.</p> <p>5b1: ODEQ’s database list indicated inspections were conducted at approximately 242 facilities from a NPDES non-Major universe of 362. The Compliance Monitoring Strategy (CMS) requires 20% inspection coverage at CWA NPDES non-Majors and ODEQ exceeded the 20% requirement.</p> <p>5b2: ODEQ’s database list indicated 100% inspection coverage of the NPDES Non-Majors with General permits universe of 116 listed in ODEQ’s database.</p>

6a: The file review results indicated 100% (36 of 36) of the inspection reports reviewed were complete and sufficient to determine compliance at the facility.

6b: The file review results indicated 91.7 % (33 of 36) of inspections reports reviewed were timely. Only three (3) inspections reports were not completed within the 45 day timeliness criteria. The 3 inspection reports took 59, 75, and 83 days to complete.

Beginning Federal Fiscal Year (FY) 2016, EPA is requesting ODEQ to submit a more specific Compliance Monitoring Strategy (CMS) plan for Significant Industrial User inspections for SIU discharging to non-authorized POTWs; Phase I and II stormwater construction inspections; and Industrial stormwater inspections.

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
	4a1 Pretreatment compliance inspections and audits				27	27
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs	100%			20	38	52.6%
4a5 SSO inspections				167	199	83.9%
4a7 Phase I & II MS4 audits or inspections				3	46	06.5%
4a8 Industrial stormwater inspections	10%			57	80	71.2%
4a9 Phase I and II stormwater construction inspections	10%			1042	1543	67.5%
5a1 Inspection coverage of NPDES majors		53.1%		93	106	87.7%
5b1 Inspection coverage of NPDES non-majors with individual permits		25.2%		0	365	0%
5b2 Inspection coverage of NPDES non-majors with general permits		6.8%		0	277	0%
6a Inspection reports complete and sufficient to determine compliance at the facility	100%			36	36	100%
6b Inspection reports completed within prescribed timeframe	100%			33	36	91.7%
<b>State response</b>	No Response Needed					
<b>Recommendation</b>	None					

### CWA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>																	
<b>Summary</b>	Violations were identified and addressed at CWA Major and non-Major facilities by ODEQ; SEVs were accurately identified as SNC or non-SNC at CWA Majors by ODEQ; and the inspection reports reviewed during the file review had sufficient documentation to determine compliance.																	
<b>Explanation</b>	<p>7a1: Number of major facilities with single-event violations reported to the national data system (non-automated violations arising from inspections and compliance monitoring). ODEQ reports SEVs to the national data system by linking SEVs resulting from inspections to the warning letter issued to the facility for the violations.</p> <p>7e: 100% (36 of 36) of the files reviewed had inspection reports with sufficient documentation leading to an accurate compliance determination.</p> <p>7f1: Non Majors in Category 1 Violations: Review of the SRF data metrics from 2011 and 2012 shows the number of noncompliant Category1 non-majors has steadily decreased from 218 (2011) to 130 (2012) to 120 (2013) and indicates a trend of the steady improvement. Review of the FY 2013 Annual Noncompliance Report for Non-majors (ANCR) shows the State reported 101 Category 1 non-Majors and based upon a comparative review of the list of FY 2013 enforcement actions for minor facilities from ODEQ’s database to the SRF data metric and ANCR results for Category 1 non-majors in noncompliance, approximately 45% (45 of 101) of the facilities were issued a formal and/or informal enforcement action. The State appears to be taking results oriented enforcement action to address SNC violations and bring NPDES non-Major facilities back into compliance.</p> <p>8b: 100% (21 of 21) files reviewed had single-event violations (SEVs) accurately identified as SNC or non-SNC at major facilities.</p> <p>8c: 100% (21 of 21) files reviewed had SEVs identified as SNC reported timely at major facilities. The SEVs were linked in ICIS to warning letters issued for violations from an inspection.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="483 1732 1006 1795">Metric ID Number and Description</th> <th data-bbox="1023 1732 1079 1795">Natl Goal</th> <th data-bbox="1088 1732 1193 1795">Natl Avg</th> <th data-bbox="1201 1732 1258 1795">State N</th> <th data-bbox="1266 1732 1323 1795">State D</th> <th data-bbox="1331 1732 1437 1795">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1806 1006 1869">7a1 Number of major facilities with single event violations</td> <td></td> <td></td> <td></td> <td></td> <td data-bbox="1331 1806 1437 1869">85</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7a1 Number of major facilities with single event violations					85					
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
7a1 Number of major facilities with single event violations					85													

	7e Inspection reports reviewed that led to an accurate compliance determination	100%	36	36	100%
	7f1 Non-major facilities in Category 1 noncompliance				120
	8b Single-event violations accurately identified as SNC or non-SNC	100%	21	21	100%
	8c Percentage of SEVs identified as SNC reported timely at major facilities	100%	21	21	100%
<b>State response</b>	No Response Needed				
<b>Recommendation</b>	None				

## CWA Element 3 — Violations

<b>Finding 3-2</b>	<b>Area for State Attention</b>						
<b>Summary</b>	The percent of majors in noncompliance is significantly higher than the National Average.						
<b>Explanation</b>	<p>7d1: Major Facilities in Noncompliance = 95 (89.60%): ODEQ issued enforcement actions to 86 of 95 (90.52%) major facilities to address noncompliance. Although, the percent of majors in noncompliance is higher than the National Average (63.10%), a review of the 2011 and 2012 data metrics shows a slight decrease in the percentage from 90.6% (2011 and 2012) to 89.6 % (2013). The State has a small universe of Major facilities and an extensive universe or non-majors, specifically wet weather, and concentrated activity appear to have been expended in this area in FY 2013. Oklahoma had significant weather events including a tornado with the resulting impact that all universes of NPDES facilities required effort and attention and may have contributed to the number of majors in noncompliance for FY 2013. However, the percentage of majors in noncompliance in comparison to the National average is a concern and should be an area for increased State attention.</p> <p>8a2: Metric 8a2: The percentage of NPDES major facilities in significant noncompliance (SNC) for Oklahoma (25.5%) is above the National average (24.40%). EPA reviewed ODEQ's FY 2013 enforcement actions and verified that the state addressed all 27 of the SNC facilities listed in Metric 8a2 with either a formal or informal enforcement action as appropriate and/or warranted. ODEQ should continue to address SNC timely and appropriately to ensure their trend of steady improvement in this area.</p>						
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>		<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	7d1 Major facilities in noncompliance			63.1%	95	106	89.6%
	8a2 Percentage of major facilities in SNC			24.40%	27	106	25.5%
<b>State response</b>	ODEQ recognized the noncompliance issues facing the major facilities in the state and will continue to do everything in its power to move these facilities back toward compliance.						
<b>Recommendation</b>	None						

## CWA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>																		
<b>Summary</b>	ODEQ’s enforcement responses reviewed in the files returned or will return the facility in violation to compliance and timely and appropriate action was taken on facilities in significant noncompliance (SNC);																		
<b>Explanation</b>	<p>9a: 100% of enforcement responses in reviewed files (36 of 36) returned or will return the facility in violation to compliance.</p> <p>10b: 100% of the enforcement responses in the reviewed files (36 of 36) addressed violations in appropriate manner. Enforcement responses included Notices of non-compliance; Warning letters; Notices of Violation; Administrative Compliance Orders; Consent Orders and Addendums with compliance schedules; and Penalty Orders.</p> <p>ODEQ addressed all 27 CWA NPDES Majors in SNC for FY 2013 with formal and/or informal enforcement actions, as warranted. ODEQ should continue to address SNC timely and appropriately to ensure their trend of steady improvement in this area.</p>																		
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>9a Percentage of enforcement responses that return or will return source in violation to compliance</td> <td>100%</td> <td></td> <td>36</td> <td>36</td> <td>100%</td> </tr> <tr> <td>10b Enforcement responses reviewed that address violations in an appropriate manner</td> <td>100%</td> <td></td> <td>36</td> <td>36</td> <td>100%</td> </tr> </tbody> </table>	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%		36	36	100%	10b Enforcement responses reviewed that address violations in an appropriate manner	100%		36	36	100%
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%		36	36	100%														
10b Enforcement responses reviewed that address violations in an appropriate manner	100%		36	36	100%														
<b>State response</b>	No Response Needed																		
<b>Recommendation</b>	None																		

## CWA Element 4 — Enforcement

Finding 4-2	Area for State Attention
<b>Summary</b>	<p>FY 2013 Data Metrics 10a1 indicates that ODEQ did not meet the National goal of more than 98% of major facilities with timely actions as appropriate, ODEQ was at 75%. Meeting the goal requires addressing Major facilities in significant noncompliance (SNC) and on the quarterly noncompliance report (QNCR) during the review year with formal enforcement action taken in a timely manner (usually within 2 QNCR quarters). In such cases, failure to take timely formal enforcement action will cause the facility to be placed on the Watch List. In FY 2013, ODEQ had a total 8 Major facilities showing on the Watch List.</p>
<b>Explanation</b>	<p>10a1: The 8 Major facilities that appeared on the Watch List in FY 2013 and listed under SRF Data Metric 10a1 were reviewed by EPA in conjunction with the FY 2013 QNCRs for ODEQ. The results of the EPA review showed that all 8 facilities received a State-issued formal enforcement action (Consent Order) to address the violations, however, the facilities remained on the QNCR and consequently the Watch List for new violations that occurred after the enforcement order was issued. In addition, the 8 facilities had special circumstances that may have contributed to them appearing on the Watch List. ODEQ took timely and appropriate action given the circumstances which included: requests for extension to complete construction, tornado damages, force majeure, and a permit modification.</p> <p>In FY 2013, ODEQ's percent of Major facilities in noncompliance was significantly higher than the National average and this is an area for state attention. However, EPA's review of ODEQ's FY 2013 Water Quality data for compliance and enforcement activities indicated that ODEQ is taking timely and appropriate enforcement actions to address this issue. ODEQ issued formal and/or informal enforcement actions to 90.52 % of the Major facilities in noncompliance; ODEQ issued formal and/or informal enforcement actions to address violations to all 27 Major facilities listed as SNC in FY 2013; and 100% of the 36 Major facility files reviewed during the onsite file review had enforcement responses that returned or will return the facility in violation to compliance.</p> <p>ODEQ should continue to issue timely and appropriate enforcement actions as warranted to NPDES facilities in noncompliance. ODEQ should continue to address SNC timely and appropriately to ensure that facilities do not remain on QNCR for 2 or more quarters without an enforcement action.</p>

Relevant metrics	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
		10a1 Major facilities with timely action as appropriate	≥98%	8%	6	8
State response	<p>As noted in EPA’s findings, a number of the facilities that appeared on the Watch List did so because of subsequent violations of a similar nature to those covered by a formal enforcement action. For a number of reasons related to manpower and enforcement discretion, ODEQ has not always chosen to issue new formal enforcement actions to cover these subsequent violations. If an existing enforcement action is amended, the new violations will be incorporated into the Addendum. In general through, ODEQ remains committed to taking timely and appropriate enforcement to address all significant noncompliance.</p>					
Recommendation	None					

**CWA Element 5 — Penalties**

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>																										
<b>Summary</b>	Twelve (12) Consent Orders (CO) were reviewed for CWA penalties. The total penalty amount assessed from the 12 COs was \$65,075.50, the total penalty amount collected was \$46,143.00, and the total penalty amount deferred was \$18,932.50.																										
<b>Explanation</b>	<p>12a: 11 of the 11 (100%) files reviewed with penalty calculations had adequate documentation of initial and final penalty and rationale. In addition, one of the files reviewed indicated that the facility and ODEQ are currently in the negotiation stage.</p> <p>12b: 11 of the 11 (100%) files reviewed with penalty calculations had adequate documentation of penalties collected.</p> <table border="1"> <thead> <tr> <th><u>Universe Collected</u></th> <th><u>Amount Assessed</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr> <td>Major</td> <td>\$16,625.50</td> <td>\$13,625.50</td> </tr> <tr> <td>Minor</td> <td>\$29,250.00</td> <td>\$13,317.50</td> </tr> <tr> <td>Stormwater Construction</td> <td>\$7,375.00</td> <td>\$7,375.00</td> </tr> <tr> <td>Stormwater Industrial</td> <td>\$2,000.00</td> <td>\$2,000.00</td> </tr> <tr> <td>Other-Municipal</td> <td>\$2,850.00</td> <td>\$2,850.00</td> </tr> <tr> <td>Other-Industrial</td> <td>\$7,000.00</td> <td>\$7,000.00</td> </tr> </tbody> </table> <p>The State shall continue to implement ODEQ’s penalty policy.</p>						<u>Universe Collected</u>	<u>Amount Assessed</u>	<u>Amount</u>	Major	\$16,625.50	\$13,625.50	Minor	\$29,250.00	\$13,317.50	Stormwater Construction	\$7,375.00	\$7,375.00	Stormwater Industrial	\$2,000.00	\$2,000.00	Other-Municipal	\$2,850.00	\$2,850.00	Other-Industrial	\$7,000.00	\$7,000.00
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12a Documentation of the difference between initial and final penalty and rationale	100%		11	11	100%																						
12b Penalties collected	100%		11	11	100%																						
<b>State response</b>	No Response Needed																										
<b>Recommendation</b>	None																										

**CWA Element 5 — Penalties**

<b>Finding 5-2</b>	<b>Area for State Attention</b>																	
<b>Summary</b>	The state is calculating and documenting penalty calculations and the penalty calculation worksheets were in most files.																	
<b>Explanation</b>	<p>11a: 9 of the 12 (75%) files reviewed with penalty calculations had adequate documentation that considered and included gravity and economic benefit. One (1) of the files reviewed indicated that the facility and ODEQ are currently in the negotiation stage. On September 1, 2012, the Water Quality Division issued a Consolidated Penalty Policy that offers guidance on calculating penalties using tables and adjustment factors to reflect the gravity of the violation(s) that necessitated the Order.</p> <p>The Water Quality Division shall continue to implement the Consolidated Penalty Policy for each Consent Orders, Administrative Compliance Orders, Addenda, and any other Order signed by the Executive Director of DEQ.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations reviewed that consider and include gravity and economic benefit</td> <td>100%</td> <td></td> <td>9</td> <td>12</td> <td>75%</td> </tr> </tbody> </table>		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%		9	12	75%				
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11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%		9	12	75%													
<b>State response</b>	No Response Needed																	
<b>Recommendation</b>	None																	

## Clean Air Act Findings

CAA Element 1 — Data						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s data accuracy and completeness. ODEQ met the national goal of 100% in reported violations per informal actions, violations reported per identified HPVs, and timely reporting of enforcement MDRs.					
<b>Explanation</b>	ODEQ met the national goal of 100% in Metrics 3b3, 7b1, and 7b3. All three metrics exceeded the national averages.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	3b3 Timely reporting of enforcement MDRs	100%	68.7%	44	44	100%
	7b1 Violations reported per informal actions	100%	59.4%	14	14	100%
	7b3 Violations reported per HPV identified	100%	57.1%	23	23	100%
<b>State response</b>	No Response Needed					
<b>Recommendation</b>	None					

## CAA Element 1 — Data

<b>Finding 1-2</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s timeliness in reporting MDRs and stack tests. EPA identified a minor problem with Metric 3b1, as well as, 3b2. ODEQ did not report all compliance monitoring MDRs and stack test dates and results in a timely manner.					
<b>Explanation</b>	The data showed the following as being reported untimely: 188 out of 2319 stack tests data and results and five out of 684 compliance monitoring MDRs. Metric 3b1 identified the untimely reporting of two Annual Compliance Certifications reviews and three state FCEs. The national average was exceeded for each metric.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	3b1 Timely reporting of compliance monitoring MDRs	100%	80.9%	679	684	99.3%
	3b2 Timely reporting of stack test dates and results	100%	75.4%	2131	2319	91.9%
<b>State response</b>	ODEQ will continue to work toward 100% timely reporting.					
<b>Recommendation</b>	None					

## CAA Element 1 — Data

<b>Finding 1-3</b>	<b>Area for State Improvement</b>																							
<b>Summary</b>	<p>EPA Region 6 evaluated ODEQ’s data accuracy and completeness. EPA identified performance deficiencies in Metric 2b and Metric 3a2. ODEQ’s data in AFS did not match information in facility files. ODEQ did not enter all HPV determinations timely.</p>																							
<b>Explanation</b>	<p>The onsite file review evaluated Metric 2b. EPA staff identified 6 out of 30 facilities where the information in the file did not match AFS/ECHO. ODEQ identified subparts as applicable within reviewed inspection reports which were not identified in AFS. There were a few instances that the state did not identify 40 CFR Part 60 Subpart A or 40 CFR Part 63 Subpart A as applicable. In all of those instances, the regulation that referenced Subpart A’s applicability was identified. After further correspondence with EPA Headquarters these few instances were not counted towards Metric 2b’s percentage. One of 6 files identified the applicability of MACT ZZZZ for new engines as defined by the rule that are subject to the rule with no requirements because of the gap that exists between the applicability dates of MACT ZZZZ and NSPS JJJJ. Although no compliance requirements existed for MACT ZZZZ at the time of the SRF, EPA still noted the regulation as applicable for the affected facility. ODEQ updated all missing subparts identified from the SRF in ICIS Air.</p> <p>The data showed the following as being reported untimely: 17 HPV determinations. This deficiency was identified as an area for state attention in the previous SRF report. The data identified 15 timely and 17 untimely HPV entries. Based on the data, untimely entry occurs approximately 50% of the time. In reference to Metric 3a2, ODEQ indicated that a thorough review is conducted prior to the entry of the HPV into AFS to gain concurrence from management and ensure the accuracy of the determination.</p>																							
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="483 1619 992 1696">Metric ID Number and Description</th> <th data-bbox="1002 1619 1073 1696">Natl Goal</th> <th data-bbox="1083 1619 1154 1696">Natl Avg</th> <th data-bbox="1174 1619 1203 1696">State N</th> <th data-bbox="1213 1619 1242 1696">State D</th> <th data-bbox="1252 1619 1408 1696">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1705 992 1738">2b Accurate MDR data in AFS</td> <td data-bbox="1002 1705 1073 1738">100%</td> <td data-bbox="1083 1705 1154 1738"></td> <td data-bbox="1174 1705 1203 1738">24</td> <td data-bbox="1213 1705 1242 1738">30</td> <td data-bbox="1252 1705 1408 1738">80.0%</td> </tr> <tr> <td data-bbox="483 1747 992 1780">3a2 Untimely entry of HPV determinations</td> <td data-bbox="1002 1747 1073 1780">0</td> <td data-bbox="1083 1747 1154 1780"></td> <td data-bbox="1174 1747 1203 1780">17</td> <td data-bbox="1213 1747 1242 1780"></td> <td data-bbox="1252 1747 1408 1780"></td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	2b Accurate MDR data in AFS	100%		24	30	80.0%	3a2 Untimely entry of HPV determinations	0		17		
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #																			
2b Accurate MDR data in AFS	100%		24	30	80.0%																			
3a2 Untimely entry of HPV determinations	0		17																					

<p><b>State response</b></p>	<p>AQD’s policy regarding HPV entry is to not flag an HPV until the case has been fully vetted through management and legal, in order to ensure fairness to the facility, and to not unduly alarm the public. It will continue to be the goal of ODEQ to enter all data, including HPVs, as timely as possible.</p> <p>ODEQ attempts to update air program/subpart information in ICIS-AIR as soon as we become aware of the applicability to the rule or regulation. If a new permit is being drafted, the subpart is added into our Team database when the permit is sent to public review (for Tier 2 or 3 permits), or when it is issued (for Tier 1 permits). If no permit action takes place during that time, the subparts are added by the inspector at the next scheduled Full Compliance Evaluation (per the SRF Round 2 Plain Language Guide). ODEQ will continue to do our best to keep the data in ICIS-AIR complete and accurate.</p>
<p><b>Recommendation</b></p>	<p>ODEQ shall ensure that all applicable air programs and/or subpart information for each facility are correct in ICIS Air (formerly documented in AFS) and that MDRs are entered accurately. On a case by case basis, facility records identified as deficient are easily corrected; however, EPA recognizes the need to have a system in place to ensure the accuracy of program information in ICIS Air. Within 90 days from the date of the final SRF report, ODEQ should complete an evaluation of its guidelines and practices as it relates to updating the current database with program information and determine if any improvements need to be made. Within 30 days after ODEQ completes its review, ODEQ shall provide to EPA its written guidelines if any on when to review and/or update facility records with program information in ICIS Air. ODEQ shall determine if any updates to its written guidelines are needed to meet the requirements of the 2014 HPV policy dated August 25, 2014, and document changes made, if any, which would result in timely HPV entries. Within 180 days of the final SRF report, ODEQ shall provide to EPA Region 6 its updated practices and outline the changes that were made which would result in timely HPV entries.</p>

## CAA Element 2 — Inspections

<b>Finding 2-1</b>	<b>Meets or Exceeds Expectations</b>												
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s documentation of full compliance evaluations (FCE) elements. EPA did not identify any issues with Metric 6a.												
<b>Explanation</b>	The onsite file review evaluated Metric 6a. Metric 6a met the national goal of 100%. ODEQ inspection reports contained the required information.												
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>6a Documentation of FCE elements</td> <td>100%</td> <td></td> <td>22</td> <td>22</td> <td>100%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6a Documentation of FCE elements	100%		22	22	100%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
6a Documentation of FCE elements	100%		22	22	100%								
<b>State response</b>	No Response Needed												
<b>Recommendation</b>	None												

## CAA Element 2 — Inspections

<b>Finding 2-2</b>	<b>Meets or Exceeds Expectations</b>																																				
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s inspection coverage and review of Title V annual compliance certifications (ACCs). EPA identified minor problems with the following: FCE coverage at majors and mega-sites, FCE coverage at SM-80s, and the review of ACCs.																																				
<b>Explanation</b>	<p>The data indicated that FCE inspections and ACC reviews did not cover the universe of sources for the following: 9 out of 165 FCEs were not conducted at major and mega-sites, 17 out of 149 FCEs were not conducted at SM-80s, and 14 out of 289 ACC reviews were not completed. ODEQ exceeded the national averages for Metrics 5a and 5e; however, performance for Metric 5b was less than the national average.</p> <p>The data identified in the table below is based on the federal fiscal year. The state of Oklahoma fiscal year differs from the federal fiscal year. ODEQ’s FCE coverage/completed inspections for majors and SM-80s are determined by a fiscal year that runs from July 1 to June 30, whereas, the federal fiscal year runs October 1 through September 30<sup>th</sup>. ODEQ performed 100% of major FCE and SM-80 inspections during the state fiscal year, as such, EPA determined that this finding meets expectations.</p> <p>ODEQ should continue to ensure that inspections are conducted at the recommended frequency and ensure that ACC reviews are completed in the appropriate year.</p>																																				
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>5a FCE coverage: majors and mega-sites</td> <td>100%</td> <td>88.5%</td> <td>156</td> <td>165</td> <td>94.5%</td> </tr> <tr> <td>5b FCE coverage: SM-80s</td> <td>100%</td> <td>93.3%</td> <td>132</td> <td>149</td> <td>88.6%</td> </tr> <tr> <td>5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan</td> <td>NA</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>5d FCE coverage: minor facilities that are part of CMS plan</td> <td>NA</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>5e Review of Title V annual compliance certifications</td> <td>100%</td> <td>81.3%</td> <td>275</td> <td>289</td> <td>95.2%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	5a FCE coverage: majors and mega-sites	100%	88.5%	156	165	94.5%	5b FCE coverage: SM-80s	100%	93.3%	132	149	88.6%	5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan	NA					5d FCE coverage: minor facilities that are part of CMS plan	NA					5e Review of Title V annual compliance certifications	100%	81.3%	275	289	95.2%
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5e Review of Title V annual compliance certifications	100%	81.3%	275	289	95.2%																																
<b>State response</b>	ODEQ will continue to complete all FCEs, as always. ODEQ will also continue to review each ACC that comes in, and based on our review we achieved 100% review. In each instance where review data showed we did not review an ACC it was because the TV permit had not yet been																																				

	issued, or it had been issued less than a year prior to the data review so the first ACC was not yet due.
<b>Recommendation</b>	None

## CAA Element 2 — Inspections

<b>Finding 2-3</b>	<b>Area for State Attention</b>																	
<b>Summary</b>	<p>EPA Region 6 evaluated ODEQ’s compliance monitoring report (CMR) completeness and efficiency to determine compliance. EPA identified a performance deficiency in Metric 6b within the CMRs. Some CMRs failed to evaluate compliance with all applicable air programs and corresponding subparts. CMRs did not include all information that is required of state inspection reports as identified in the CMS.</p>																	
<b>Explanation</b>	<p>The onsite file review evaluated Metric 6b. EPA staff identified 3 out of 22 CMRs that did not evaluate compliance with a subpart that was identified as applicable in AFS. As such, EPA staff noted that the reports were incomplete and lacked sufficient information to determine compliance with all applicable subparts. One report did not address MACT DDDDD and NSPS IIII which were noted as applicable in AFS at the time of the SRF. Another report did not address MACT DDDDD, NSPS UUUUU, and MACT ZZZZ which were noted as applicable in AFS. The 3<sup>rd</sup> report did not address MACT DDDDD which was noted as applicable in AFS. EPA noted that MACT DDDDD is applicable as the reporting requirement of the initial notification was due on January 31, 2013, or within 15 days of start-up if after January 31, 2013. EPA noted that existing heaters/boilers have until January 31, 2016, to show compliance with MACT DDDDD with compliance and monitoring requirements.</p> <p>The CMRs in most instances failed to include the facility contact phone number and a few reports did not include the facility mailing address. There were instances where the facility was not explicitly identified as a “Title V major source.”</p> <p>ODEQ shall continue to ensure that inspectors evaluate and document all applicable state delegated air programs and/or subparts while conducting an FCE. ODEQ shall ensure that each component identified in CAA Stationary Source Compliance Monitoring Strategy (2014) is addressed consistently.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="483 1619 1000 1686">Metric ID Number and Description</th> <th data-bbox="1008 1619 1073 1686">Natl Goal</th> <th data-bbox="1081 1619 1175 1686">Natl Avg</th> <th data-bbox="1183 1619 1224 1686">State N</th> <th data-bbox="1232 1619 1273 1686">State D</th> <th data-bbox="1281 1619 1414 1686">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1696 1000 1791">6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance</td> <td data-bbox="1008 1696 1073 1791">100%</td> <td data-bbox="1081 1696 1175 1791"></td> <td data-bbox="1183 1696 1224 1791">19</td> <td data-bbox="1232 1696 1273 1791">22</td> <td data-bbox="1281 1696 1414 1791">86.4%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		19	22	86.4%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		19	22	86.4%													

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<b>State response</b>	<p>AQD has modified our report template to help insure that these elements will be included in all future reports.</p> <p>For those cases where “the facility was not explicitly identified as a “Title V major source,”” ODEQ always makes clear the source category designation somewhere in the report. The reviewers stated that they would like to see it on the first page, but that is not a requirement, and it is usually not our practice.</p> <p>ODEQ will point out that our inspections and reports are extremely detailed and thorough. However, we work to continually improve our accuracy and completeness, and will continue to strive for perfection.</p>
<b>Recommendation</b>	None

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### CAA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s accuracy determining compliance and HPV determinations. EPA did not identify any issues with Metrics 7a, 8a, and 8c. ODEQ is consistently accurate in the assessment of compliance and HPV determinations.					
<b>Explanation</b>	The onsite file review evaluated Metrics 7a and 8c. In all of the files reviewed ODEQ made correct compliance determinations and accurately assessed the HPV status at each facility.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	7a Accuracy of compliance determinations	100%		27	27	100%
	8a HPV discovery rate at majors		4%	23	288	8%
	8c Accuracy of HPV determinations	100%		20	20	100%
<b>State response</b>	No Response Needed					
<b>Recommendation</b>	None					

## CAA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s use of enforcement to return facilities to compliance. EPA did not identify any issues with Metric 9a.					
<b>Explanation</b>	The onsite file review evaluated Metric 9a. Metric 9a met the national goal of 100%. ODEQ’s enforcement actions contained language that required the facility to return to compliance.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%		16	16	100%
<b>State response</b>	No Response Needed					
<b>Recommendation</b>	None					

**CAA Element 4 — Enforcement**

<b>Finding 4-2</b>	<b>Meets or Exceeds Expectations</b>																	
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s effectiveness in taking timely and appropriate enforcement. EPA identified a minor issue with Metric 10b. ODEQ did not use an appropriate response in an HPV enforcement case.																	
<b>Explanation</b>	<p>The onsite file review evaluated Metric 10b. In one of the 14 files evaluated for 10b, ODEQ did not assess a penalty for a HPV violation. The file did not contain the information to substantiate and document why no penalty was assessed. ODEQ’s Air Quality Division Penalty Guidance recommends a penalty of \$5,000-\$10,000 for a Title V permit application violation. As outlined in the CAA Plain Language Guide, actions that were not appropriate under the 1998 HPV Policy were actions that were informal, that did not contain an appropriate penalty, or formal actions that did not return the source to compliance or contain a compliance schedule. While onsite, ODEQ indicated that enforcement discretion was used in this case.</p> <p>In this particular case, collocation of a major source gas plant and two satellites sites was identified by ODEQ and required the modification of a Part 70 permit. The facility in question immediately submitted a Title V permit modification application to include the satellite sites and voluntarily installed a vapor recovery unit to one of the satellite sites to reduce potential to emit (PTE). ODEQ indicated that it bears some of the responsibility as it failed to identify the collocation issue on previous inspections. Based on this information, ODEQ indicated that \$0 penalty was determined for the failure to submit a Title V permit application.</p> <p>Note: The HPV violation was addressed in a formal enforcement action that included a penalty; however; the penalty documentation indicated that no penalty was assessed for the HPV violation. The assessed penalty in the formal enforcement action was calculated using the other violations identified in the compliance order.</p> <p>ODEQ should continue to ensure that HPV violations are addressed appropriately.</p>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="483 1724 1003 1797">Metric ID Number and Description</th> <th data-bbox="1003 1724 1068 1797">Natl Goal</th> <th data-bbox="1068 1724 1182 1797">Natl Avg</th> <th data-bbox="1182 1724 1247 1797">State N</th> <th data-bbox="1247 1724 1312 1797">State D</th> <th data-bbox="1312 1724 1417 1797">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1797 1003 1871">10b Appropriate enforcement responses for HPVs</td> <td data-bbox="1003 1797 1068 1871">100%</td> <td data-bbox="1068 1797 1182 1871"></td> <td data-bbox="1182 1797 1247 1871">13</td> <td data-bbox="1247 1797 1312 1871">14</td> <td data-bbox="1312 1797 1417 1871">92.9%</td> </tr> </tbody> </table>						Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	10b Appropriate enforcement responses for HPVs	100%		13	14	92.9%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
10b Appropriate enforcement responses for HPVs	100%		13	14	92.9%													

<b>State response</b>	DEQ historically had not identified the situation at the facility's site as a collocation violation, but when identified the facility took immediate action to correct the permitting issues. The HPV policy required collection of an appropriate penalty. As explained during the review, and in detail in an email to the reviewers, ODEQ believed the appropriate penalty was \$0 for this violation under these circumstances. ODEQ will continue to ensure that HPV violations are addressed appropriately.
<b>Recommendation</b>	None

## CAA Element 4 — Enforcement

<b>Finding 4-3</b>	<b>Area for State Improvement</b>												
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s effectiveness in taking timely and appropriate enforcement. EPA identified a performance deficiency with Metric 10a. ODEQ did not address all HPVs in a timely manner.												
<b>Explanation</b>	<p>Although Metric 10a is not a goal metric, ODEQ’s performance is well under the national average. This deficiency was identified as an area for state attention in the previous SRF report. Information contained within this section was evaluated against the 1998 HPV policy.</p> <p>The data indicated that 13 out of 24 HPVs identified were not addressed within 270 days (or 300 days if lead change) from the date of the HPV designation (Day Zero). ODEQ indicated that a thorough review is conducted prior to the entry of the HPV into AFS to gain concurrence from management and ensure the accuracy of the determination.</p> <p>Note: In the 1998 HPV policy, Day Zero was determined from the date of discovery of the violation and was typically 45 days after discovery unless additional information is required. The State’s review process can affect the entry of the determination into AFS (Metric 3a2) and can potentially lessen the amount of days the State has to work on addressing violations and be within 270 days (Metric 10a).</p> <p>Under the 2014 HPV Policy, ODEQ indicated if an HPV is not addressed within 180 days from Day Zero, it will discuss the HPV at the next bi-monthly HPV call, on or before the 180<sup>th</sup> day. ODEQ indicated that a Case Management Plan with milestones will be documented in its TEAM database by Day 225. EPA Region 6 and ODEQ intend to have the initial case-specific consultation within 270 days of Day Zero and will discuss the unaddressed HPV during the bi-monthly HPV calls until the violation(s) is addressed.</p>												
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>10a Timely action taken to address HPVs</td> <td></td> <td>67.5%</td> <td>11</td> <td>24</td> <td>45.8%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	10a Timely action taken to address HPVs		67.5%	11	24	45.8%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #								
10a Timely action taken to address HPVs		67.5%	11	24	45.8%								
<b>State response</b>	In order to foster a good working relationship with the regulated community, ODEQ addresses the vast majority of our violations by negotiating and entering into Consent Orders (“CO”) with the violating entity. These negotiations often take longer than the timelines established in the HPV policy, but ODEQ believes they result in a better												

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outcome in the end. Therefore, ODEQ will continue to use the CO process, while making every effort to meet the new timelines, including the establishment of a Case Management Plan when necessary.

ODEQ AQD will continue to strive for timely reporting and addressing of HPVs, within the constraints of our internal policies. ODEQ will do our best to follow the 2014 HPV policy. This will include bi-monthly communication with EPA, and if an HPV is not addressed within 180 days of Day Zero, development of a Case Management Plan with milestones by Day 225.

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**Recommendation**

ODEQ shall review and implement the 2014 HPV policy dated August 25, 2014. The new policy is a significant revision to the 1998 policy. For example, the policy states that an attempt to address HPVs shall be made within 180 days of Day Zero instead of the previous 270 days or a Case Management Plan is needed. Upon receipt of the final report, ODEQ shall immediately review and implement the 2014 HPV policy. ODEQ shall advise EPA on bi-monthly calls if an HPV will not be addressed on or before 180 days from Day Zero. ODEQ shall develop a Case Management Plan for HPVs that will not be addressed within 180 days from Day Zero and document its milestones in its TEAM database. ODEQ shall have a copy of the Case Management Plan available at EPA's request.

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## CAA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s penalty documentation. EPA did not identify any issues with Metrics 12a and 12b. ODEQ’s enforcement files consistently contained information on penalty amounts and payments collected.					
<b>Explanation</b>	The onsite file review evaluated Metrics 12a and 12b. All files contained information that was sufficient to show that penalty payments were received. All files documented the differences in the proposed and final penalties. At least one file did not require any additional information since the proposed and final penalty amounts were the same.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	12a Documentation on difference between initial and final penalty	100%		13	13	100%
	12b Penalties collected	100%		14	14	100%
<b>State response</b>	No Response Needed					
<b>Recommendation</b>	None					

## CAA Element 5 — Penalties

<b>Finding 5-2</b>	<b>Meets or Exceeds Expectations</b>																
<b>Summary</b>	EPA Region 6 evaluated ODEQ’s penalty documentation for economic benefit. EPA identified a minor issue with Metric 11a. In a single instance, ODEQ penalty documentation did not reference economic benefit.																
<b>Explanation</b>	<p>The onsite file review evaluated Metric 11a. The penalty calculation in one out of 14 files did not address economic benefit.</p> <p>Note: None of the reviewed files assessed an economic benefit penalty. Of the files that addressed economic benefit, all indicated that economic benefit was considered insignificant or less than \$5,000. No documentation from EPA’s enforcement economic model (i.e. BEN) were included in the files.</p>																
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th>Metric ID Number and Description</th> <th>Natl Goal</th> <th>Natl Avg</th> <th>State N</th> <th>State D</th> <th>State % or #</th> </tr> </thead> <tbody> <tr> <td>11a Penalty calculations include gravity and economic benefit</td> <td>100%</td> <td></td> <td>13</td> <td>14</td> <td>92.9%</td> </tr> </tbody> </table>					Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	11a Penalty calculations include gravity and economic benefit	100%		13	14	92.9%
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #												
11a Penalty calculations include gravity and economic benefit	100%		13	14	92.9%												
<b>State response</b>	ODEQ always assesses whether or not a BEN is appropriate; however, in cases that involve recordkeeping or reporting violations, certification violations, or permit violations (i.e. “paperwork violations”), we know from experience that the BEN will never reach our lower threshold. So in those cases we do not run a BEN and do not provide documentation.																
<b>Recommendation</b>	None																

## Resource Conservation and Recovery Act Findings

ODEQ operates on a different schedule than the SRF. Whereas the SRF measures accomplishments during the Federal fiscal year (October 1 through September 30), Oklahoma plans and measures its accomplishments during its fiscal year (July 1 through June 30). ODEQ's RCRA Grant Work Plan is also organized on the State's fiscal year.

RCRA Element 1 — Data						
<b>Finding 1-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	FY 2013 inspection data in RCRAInfo is accurate, no major discrepancies noted.					
<b>Explanation</b>	Requested to review files for thirty (30) facilities; however, one (1) was identified as an ongoing Corrective Action. Twenty-nine (29) facility files reviewed; twenty-eight (28) inspection reports and one (1) Non-Financial Records Review.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	2b Complete and accurate entry of mandatory data	100%		29	29	100%
<b>State response</b>						
<b>Recommendation</b>	None					

## RCRA Element 2 — Inspections

### Finding 2-1

### Meets or Exceeds Expectations

#### Summary

ODEQ determines its' LQG universe from RCRAInfo (Number of active LQGs) on or near July 1 of each year as this is the start of their State Fiscal Year (SFY), (July 1 through June 30).

ODEQ doesn't use the Biennial Report (BR) data for LQG targeting for the following reasons: 1) BR number can represent one-time notifiers from two years ago (e.g., tank cleanout that only happens once every ten years); 2) BR number can include one-time bridge painting projects where if ODEQ tries to find the notified location it will be a freshly painted overpass over a highway that might have been done two years ago; and 3) BR number could include a glut of "big box" (e.g., Target, Walmart) or pharmacy stores (e.g., CVS, Walgreens) that all notify as LQGs at once, etc.

ODEQ believes it makes much more logical sense to use the active LQGs from RCRAInfo rather than the old data from the previous BR. ODEQ states that it might make some sense to use the BR information if it was timely, but since ODEQ's fiscal year starts in July, they can't wait until the finalized BR reports are released after October to assign inspections.

ODEQ has developed and uses universe specific inspection checklists (e.g., TSDf, LQG) that contain carbon copies. These checklists have eliminated the need for writing text narratives on routine inspections of CESQGs, SQGs and other CEIs especially when there are no violations found and/or the facilities are inspected every year such as commercial TSDfS. These checklists are also designed to take the place of closure letters for inspections that are completed onsite and/or completed with no violations observed. More specifically, on the last page of each checklist there are two check boxes where the inspector can mark that the facility is compliant and no further response is required (paraphrased); or, that violations were found and a response is due by a certain date.

The checklist states: "This Notice in no way limits the DEQ's authority to pursue additional enforcement such as, but not limited to, an Administrative Order and/or assessment of penalties, based on the nature or gravity of violations found, failure to respond to this Notice, or otherwise in accordance with its statutory authority."

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Requested to review files for thirty (30) facilities; however, one (1) was identified as an ongoing Corrective Action and one (1) was a Non-Financial Records Review. Of the twenty-eight (28) inspection reports reviewed, there was a mixture of handwritten and typed. It is important for inspectors to use legible handwriting. The vast majority of the inspection reports were very detailed (i.e., checklist completed to include comprehensive narrative explanations). Inspection reports reviewed did properly document observations and were completed in a timely manner. Inspectors identified plant operations and whether waste streams were being properly characterized and handled properly. Each inspection report did include accurate description of observations sufficient to determine compliance at the facility. Each inspection report does undergo a peer review and/or management review to ensure consistency in application of enforcement policy.

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**Explanation**

State Fiscal Year 13 (SFY13) - 7/1/2012 through 6/30/2013

Results when SFY numbers are used for Metrics 5a, 5b, and 5c instead of the SRF Federal Fiscal Year (FFY) Frozen Data:

5a. ODEQ did 15 evaluations (14 CEIs and 1 FCI and GME) at 15 operating TSDFs in its SFY13;  $15/14 = 107\%$

Note: ODEQ typically does all of its commercial TSDFs each SFY. At least 50% of these are both a TSDF and LQG.

5b. ODEQ LQG universe for its SFY13 was 136 based on RCRAInfo;  $25/136 = 18\%$ . However, eight (8) of the TSDF inspections are counted as LQG inspections given that ODEQ does 100% of its commercial TSDFs each SFY. Therefore; ODEQ conducted 33 LQG inspections in its SFY13;  $33/136 = 24\%$ .

Around July 1<sup>st</sup> of each year ODEQ pulls the total LQG list from RCRAInfo and a report of the LQGs that have never been inspected. The number of LQGs is multiplied by .20 to get the number that is 20% for that grant year. If not a whole number, ODEQ rounds-up. This number is divided by the number of inspectors to arrive at the LQGs per inspector number. The inspectors pick the facilities they will inspect starting with those that have never been inspected. This process should always result in ODEQ doing at least 20% of its LQGs each grant year.

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The reason why FY13 frozen data is showing less than 20%:  
State Fiscal Year is a full quarter different from that of the Federal Fiscal Year.  
Those inspections done in July and August do not count in Federal FY13  
(RCRAInfo report for just LQG CEIs done in State FY13 = 23  
vs.  
those done in Federal FY13 = 20)  
(Note: just LQGs means not counting those facilities that are both LQG and TSDF)

5c. ODEQ provided their RCRAInfo Active LQG list for its' SFY09, SFY10, SFY11, SFY12, and SFY13. A review of these documents reveal the following:

Metric ID 1a2, Number of active LQGs

SFY09 = 40  
SFY10 = 133  
SFY11 = 132  
SFY12 = 133  
SFY13 = 136

ODEQ LQG inspections done in its FY:

SFY09 = 11 (11/40 = 27.5%)  
SFY10 = 34 (34/133 = 26%)  
SFY11 = 26 (26/132 = 20%)  
SFY12 = 24 (24/133 = 18%; 30/133 = 22.5% with 6 TSDFs)  
SFY13 = 25 (25/136 = 18%; 33/136 = 24% with 8 TSDFs)  
Total = 120

ODEQ LQG inspection done in Federal FY:

FY09 = 18  
FY10 = 29  
FY11 = 30  
FY12 = 24  
FY13 = 23  
Total = 124

The data shows that ODEQ has consistently met or exceeded the 20% annual inspection coverage goal over the past years.

The reason why frozen data is showing less than 100% of LQGs inspected every 5 years:

In addition to 5b comment, the following can impact universe numbers:

Influx of new notifying LQGs after ODEQ has pulled universe number (i.e., August/September timeframe, a number of pharm-waste notifiers like CVS, Target, Walgreens);

One-time notifiers;

Usual SQGs and CESQGs that do a one-time cleanout or get rid of off-spec products and become a LQG only once;

Facilities that are no longer LQGs; and

Facilities that go out of business.

A review of the LQGs identified in State Fiscal Year 2009 shows every facility has been inspected. Almost half (19) of the 40 facilities were no longer LQGs at time of inspection.

ODEQ and the Region believe that there is 100% coverage every 5 years, at least, for its “long-term” active LQGs.

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
5a Two-year inspection coverage of operating TSDFs	100%	87.60%	14	14	100%
5b Annual inspection coverage of LQGs	20%	21%	27	181	14.90%
5c Five-year inspection coverage of LQGs	100%	66.60%	112	181	61.90%
5d Five-year inspection coverage of active SQGs		11%	159	564	28.20%
5e1 Five-year inspection coverage at other sites (CESQGs)			354		
5e2 Five-year inspection coverage at other sites (Transporters)			31		
5e3 Five-year inspection coverage at other sites (Non-notifiers)			2		
5e4 Five-year inspection coverage at other sites (not covered by metrics 5a-5e3)			208		
6a Inspection reports complete and sufficient to determine compliance	100%		28	28	100%
6b Timeliness of inspection report completion	100%		28	28	100%

**State response**

The report acknowledges that, while the frozen data shows DEQ’s RCRA program did not meet its annual LQG inspection coverage of

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	<p>20% and 5-year coverage of 100%, DEQ actually did meet its 20%/100% inspection coverage when reviewed on a state fiscal year basis and considering the fluid nature of the regulated universe. DEQ takes very seriously its obligation under its authorized program to meet the LQG inspection coverage, so we are pleased EPA acknowledges that raw metric outcomes may not accurately represent the state of the program and clarifies such outcomes in the report. In spite of EPA's finding; however, Metric 5b and 5c shows that DEQ did not meet its 20%/100% coverage. We believe the table should be updated to accurately reflect EPA's finding that DEQ met its 20%/100% inspection coverage, rather than reporting the incorrect frozen data and having the correct information buried within the text.</p>
<b>Recommendation</b>	None

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## RCRA Element 3 — Violations

<b>Finding 3-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	<p>Of the twenty-eight (28) inspection reports reviewed, fifteen (15) did not identify any violations. Of the thirteen (13) that identified violations, nine (9) informal enforcement actions were issued, three (3) formal enforcement actions were issued, and one (1) formal enforcement action is being prepared. In addition, the Non-Financial Records Review resulted in an informal enforcement action. All compliance determinations consistent with EPA Hazardous Waste Civil Enforcement Response Policy and Guidance.</p> <p>EPA’s review of the twenty-eight (28) inspection reports and the one (1) Non-Financial Records Review indicated that the appropriate determination was made in all twenty-nine (29) facility files.</p>					
<b>Explanation</b>	<p>2a. One (1) Long-standing secondary violator – enforcement conference held; reached an agreement in principle; ODEQ to send consent order for signature.</p> <p>7a. Requested to review files for thirty (30) facilities; however, one (1) was identified as an ongoing Corrective Action and one (1) was a Non-Financial Records Review.</p>					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	1c1 Number of sites with new violations during the review year					28
	2a Long-standing secondary violators					1
	7a Accurate compliance determinations	100%		29	29	100%
	8a SNC identification rate		1.70%	3	99	3%
	8b Timeliness of SNC determinations	100%	77.80%	3	3	100%
	8c Appropriate SNC determinations	100%		14	14	100%
<b>State response</b>						
<b>Recommendation</b>	None					

## RCRA Element 3 — Violations

<b>Finding 3-2</b>	<b>Area for State Attention</b>																	
<b>Summary</b>	<p>Of the twenty-eight (28) inspection reports reviewed, fifteen (15) did not identify any violations. Of the thirteen (13) that identified violations, nine (9) informal enforcement actions were issued, three (3) formal enforcement actions were issued, and one (1) formal enforcement action is being prepared. In addition, the Non-Financial Records Review resulted in an informal enforcement action. All compliance determinations consistent with EPA Hazardous Waste Civil Enforcement Response Policy and Guidance.</p> <p>EPA’s review of the twenty-eight (28) inspection reports and the one (1) Non-Financial Records Review indicated that the appropriate determination was made in all twenty-nine (29) facility files.</p>																	
<b>Explanation</b>	<p>7b. ODEQ continues to be below National Average in violations found during inspections. A review of the data for past years shows ODEQ is consistent in its percentage of violations identified during inspections. Furthermore, Metric 7a shows that ODEQ made appropriate violation determinations for all the files reviewed. However, EPA discussed the data showing ODEQ lower than the national average for inspections revealing violations as an area for ODEQ attention.</p> <p>However, ODEQ offers the following comments:</p> <ol style="list-style-type: none"> <li>1) Violations are identified when found.</li> <li>2) A large part of annual inspection total is made up of LQGs, TSDFs, and Federal Facilities (i.e., military bases) all of which have been inspected multiple times; therefore, it is natural that those inspections will not result in violations being found. The vast majority of repeat inspections are at facilities that have been largely compliant for 20 years and/or have a large environmental compliance staff; therefore, that large chunk of ‘non-violation receiving’ facilities skews the overall number downward.</li> <li>3) The obverse of the above also applies. Since ODEQ cannot spend as much time inspecting the source of most violations (SQGs, CESQGs, and non-notifiers) due to spending most of their time re-inspecting LQGs, TSDFs, and military bases, their violation numbers get skewed lower.</li> </ol>																	
<b>Relevant metrics</b>	<table border="1"> <thead> <tr> <th data-bbox="483 1717 1002 1791">Metric ID Number and Description</th> <th data-bbox="1013 1717 1089 1791">Natl Goal</th> <th data-bbox="1094 1717 1170 1791">Natl Avg</th> <th data-bbox="1175 1717 1219 1791">State N</th> <th data-bbox="1224 1717 1268 1791">State D</th> <th data-bbox="1273 1717 1408 1791">State % or #</th> </tr> </thead> <tbody> <tr> <td data-bbox="483 1797 1002 1843">7b Violations found during inspections</td> <td data-bbox="1013 1797 1089 1843"></td> <td data-bbox="1094 1797 1170 1843">34.80%</td> <td data-bbox="1175 1797 1219 1843">21</td> <td data-bbox="1224 1797 1268 1843">99</td> <td data-bbox="1273 1797 1408 1843">21.20%</td> </tr> </tbody> </table>	Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #	7b Violations found during inspections		34.80%	21	99	21.20%					
Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #													
7b Violations found during inspections		34.80%	21	99	21.20%													

<p><b>State response</b></p>	<p>According to the SRF report, DEQ’s violation hit rate (percent of inspections in which violations were found) was 21.2%, versus the national average of 34.8%. While we understand that EPA would look at a state’s underperformance against the national average with a bit more scrutiny, EPA’s discussion does not present any factual basis, based on the files reviewed, to suggest this should be an area for state attention. We believe it is a testament to the success of our RCRA program that facilities in Oklahoma are generally more in compliance than the national average.</p> <p>The summary for this finding notes that EPA reviewed 28 inspection reports, 13 of which identified violations (a 46% violation hit rate, and well above the national average), and that “[a]ll compliance determinations [were] consistent with EPA Hazardous Waste Civil Enforcement Response Policy and Guidance.” Furthermore, the report states “the appropriate determination was made in all twenty-nine (29) facility files [composed of the 28 inspection reports and one non-financial record review].” We appreciate EPA’s finding that appropriate determinations were made for all of the inspections reviewed; however, the only conclusion that can be drawn from EPA’s overall finding of “area for state attention” is that EPA believes DEQ is not making appropriate violation determinations for the vast majority of inspections not physically reviewed. This is a conclusion not supported by any finding.</p> <p>Also, it should be noted that a new initiative we are implementing to further improve compliance should result in continued “low” rates of inspections with violations. Before the SRF review had begun, DEQ’s RCRA program began development of a self-certification program for small quantity generators, which we expect will greatly improve compliance rates at these facilities. This is a very customer-oriented program designed to help these entities achieve and maintain a high level of compliance in a non-confrontational manner. When the goals are met, we anticipate continuing to show a reduced percentage of facilities with violations. We hope to eventually expand the self-certification program to other universes or sectors, further improving compliance rates. In future SRFs, a similar finding should be lauded by EPA as a measure of program success, not a shortcoming.</p>
<p><b>Recommendation</b></p>	<p>None</p>

## RCRA Element 4 — Enforcement

<b>Finding 4-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	ODEQ’s enforcement priority was to maintain a high rate of compliance in accordance with the EPA Hazardous Waste Civil Enforcement Response Policy (December 2003) by taking timely, visible and appropriate enforcement. ODEQ focused on the most environmentally significant handlers, promoting pollution prevention and encouraging a holistic view of compliance.					
<b>Explanation</b>	The enforcement files reviewed indicate that ODEQ enforcement actions require compliance and specify compliance timeframes. The enforcement actions reviewed were timely and appropriate.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>	<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D</b>	<b>State % or #</b>
	9a Enforcement that returns violators to compliance	100%		13	13	100%
	10a Timely enforcement taken to address SNC	80%	77.30%	1	1	100%
	10b Appropriate enforcement taken to address violations	100%		13	13	100%
<b>State response</b>						
<b>Recommendation</b>	None					

## RCRA Element 5 — Penalties

<b>Finding 5-1</b>	<b>Meets or Exceeds Expectations</b>					
<b>Summary</b>	<p>ODEQ has developed a Hazardous Waste Penalty Calculation Worksheet. The document is organized with a cover page on the first tab. Subsequent tabs are for the separate violations. As the totals are calculated, they automatically populate onto the cover page such that, when you're done with the particulars of each violation, you should end up with a final penalty calculation on the first page. Each violation tab is organized in the following sections:</p> <ol style="list-style-type: none"> <li>1. Economic Benefit</li> <li>2. Gravity based component</li> <li>3. Time frame</li> <li>4. Degree of culpability</li> <li>5. Compliance history</li> <li>6. Good faith efforts to comply</li> </ol> <p>Inability to pay or other factors</p>					
<b>Explanation</b>	Penalty calculations document gravity and economic benefit components. Penalty collection documented.					
<b>Relevant metrics</b>	<b>Metric ID Number and Description</b>		<b>Natl Goal</b>	<b>Natl Avg</b>	<b>State N</b>	<b>State D % or #</b>
	11a Penalty calculations include gravity and economic benefit		100%		3	3 100%
	12a Documentation on difference between initial and final penalty		100%		1	1 100%
	12b Penalties collected		100%		3	3 100%
<b>State response</b>						
<b>Recommendation</b>	None					