

September 17, 2010

**Alabama Department of
Environmental Management**

**Final State Review Framework Report – Round 2
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I. EXECUTIVE SUMMARY

In early 2009, the Environmental Protection Agency (EPA) initiated the second State Review Framework (SRF) evaluation of the Alabama Department of Environmental Management (ADEM). The SRF is a program designed to ensure EPA conducts oversight of state compliance and enforcement programs for the Resource Conservation & Recovery Act (RCRA) Subtitle C program, the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program and the Clean Air Act (CAA) Stationary Source program in a nationally consistent and efficient manner. The first SRF evaluation at ADEM took place in 2006, and was based on enforcement and compliance activities that occurred in FY2005. The second SRF evaluation is based on FY2008 compliance and enforcement activities.

SRF evaluations look at twelve program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations, enforcement actions (appropriateness and timeliness); and, penalties (calculation, assessment and collection). Reviews are conducted in three phases, including (1) analyzing information from the national data systems, (2) reviewing a limited set of state files, and (3) development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The SRF Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. SRF Reports are not used to compare or rank state programs.

The SRF evaluation found that in some areas Alabama implements an effective compliance and enforcement program. For example, when environmental noncompliance was identified, the state ensured that the violating facilities implemented steps to prevent pollution from recurring, took actions to clean up contamination, or other steps needed to further protect the public and the environment. In the area of inspection coverage, Alabama generally met or exceeded their goals for the CAA, CWA and RCRA programs (with minor exceptions for RCRA).

Alabama also had some program areas where, with the implementation of a few improvements, the state’s performance would be strengthened. This included the quality and timeliness of inspection reports, and the timeliness of data entry into the national databases. There were also several CWA SRF concerns related to incomplete data in PCS, the national database for the NPDES program. It is important that data on facilities’ discharges and compliance status be available and transparent to regulators and the public.

A. Significant Cross-Media Issues

There were two elements in the SRF evaluation, Elements 11 and 12, which indicated a cross-media issue regarding the calculation and documentation of penalties in enforcement actions. ADEM does not maintain penalty documentation in their enforcement files, and no other penalty calculations were provided to EPA upon request. Therefore, it cannot be determined if the appropriate economic benefit and gravity portion of the penalties are assessed and recovered by the state. In addition, there is no documentation of the rationale between initial and final penalty amounts. This is an outstanding issue that was identified in Round 1 of the SRF.

Since the time period of review for the SRF, Fiscal Year 2008, ADEM has implemented steps to include penalty calculation worksheets in proposed enforcement actions, and post the proposed enforcement actions on ADEM's website. While these new penalty calculation worksheets were not evaluated as part of this SRF report, an initial review indicates that key documentation of economic benefit, gravity, and final penalty calculations are still missing from the worksheets.

B. CAA Program

- Meets SRF Program Requirements – In the CAA SRF evaluation, the following eight elements met the SRF program requirements:
 - Element 3 - Timeliness of Data Entry
 - Element 4 - Completion of Commitments
 - Element 5 - Inspection Coverage
 - Element 6 - Quality of Inspection or Compliance Evaluation Reports
 - Element 7 - Identification of Alleged Violations
 - Element 8 - Identification of SNC and HPV
 - Element 9 - Enforcement Actions Promote Return to Compliance
 - Element 10 - Timely and Appropriate Action
- Area for State Attention – There was one minor area identified for state attention:
 - Element 1 - Data Completeness
- Area for State Improvement - There were three CAA Elements where a recommendation for state improvement was identified in the SRF evaluation:
 - Element 2 - Data Accuracy
 - Element 11 - Penalty Calculation Method
 - Element 12 - Final Penalty Assessment and Collection
- Good Practice – There were no SRF Elements identified in this category.
- Continuing CAA Problems from Round 1 – Element 11 (Penalty Calculation Method) and Element 12 (Final Penalty Assessment and Collection) are continuing problems from Round 1, as mentioned previously under “Significant Cross-Media Issues.”

C. CWA Program

- Meets SRF Program Requirements – In the CWA SRF evaluation, there were two SRF elements that met the SRF criteria:
 - Element 5 - Inspection Coverage
 - Element 9 - Enforcement Actions Promote Return to Compliance

- Area for State Attention - There was one minor area that was identified for state attention:
 - Element 2 - Data Accuracy

- Area for State Improvement - There were eight CWA Elements where a recommendation for state improvement was identified in the SRF evaluation:
 - Element 1 - Data Completeness
 - Element 4 - Completion of Commitments
 - Element 6 - Quality of Inspection or Compliance Evaluation Reports
 - Element 7 - Identification of Alleged Violations
 - Element 8 - Identification of SNC and HPV
 - Element 10 - Timely and Appropriate Action
 - Element 11 - Penalty Calculation Method
 - Element 12 - Final Penalty Assessment and Collection

- Good Practice – There were no SRF Elements identified in this category.

- Continuing CWA Problems from Round 1 – In addition to Elements 11 and 12 (mentioned previously under “Significant Cross-Media Issues”), CWA Element 2 (Data Accuracy) and CWA Element 8 (Identification of SNC and HPV) are continuing problems from SRF Round 1.

D. RCRA Program

- Meets SRF Program Requirements – In the RCRA SRF evaluation, the following five elements met the SRF program criteria:
 - Element 1 - Data Completeness
 - Element 3 - Timeliness of Data Entry
 - Element 4 - Completion of Commitments
 - Element 7 - Identification of Alleged Violations
 - Element 9 - Enforcement Actions Promote Return to Compliance

- Area for State Attention – There were three minor issues identified in the RCRA evaluation:
 - Element 2 - Data Accuracy
 - Element 5 - Inspection Coverage
 - Element 6 - Quality of Inspection or Compliance Evaluation Reports
- Area for State Improvement - There were four RCRA Elements where recommendations for state improvement were identified in the SRF evaluation:
 - Element 8 - Identification of SNC and HPV
 - Element 10 - Timely and Appropriate Action
 - Element 11 - Penalty Calculation Method
 - Element 12 - Final Penalty Assessment and Collection
- Good Practice – There were no SRF Elements identified in this category.
- Continuing RCRA Problems from Round 1 – In addition to Elements 11 and 12 (mentioned previously under “Significant Cross-Media Issues”), RCRA Element 6 (Quality of Inspection Reports) and Element 10 (Timely and Appropriate Enforcement) are continuing problems from SRF Round 1.

II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS

A. General Program Overview

Agency Structure

Alabama established a comprehensive program of environmental management in 1982 with the passage by the Alabama Legislature of the Alabama Environmental Management Act. The law created the Alabama Environmental Management Commission and established ADEM, which absorbed several commissions, agencies, programs and staffs that had been responsible for implementing environmental laws.

ADEM administers all major federal environmental laws, including the CAA stationary source program, the CWA NPDES program, and the RCRA Subtitle C hazardous waste program. The seven-member Environmental Management Commission, whose members are appointed to six-year terms by the governor and subject to confirmation by the Alabama Senate, is charged with developing the state’s environmental policy, hearing administrative appeals of permits, administrative orders and variances issued by the Department, adopting environmental regulations and selecting an ADEM director.

Compliance/Enforcement Program Structure

ADEM's compliance and enforcement programs are organized by separate media Divisions: the Air Division, the Water Division, and the Land Division. The Air Division has primary jurisdiction over all air emission sources within the State, except those emission sources located within Jefferson County or the City of Huntsville. There is no centralized multimedia enforcement office at ADEM. The state's main office is in Montgomery, Alabama.

Roles and Responsibilities

ADEM's compliance and enforcement strategy is outlined in the ADEM Memorandum #105, effective date January 1, 2008. The strategy provides guidance for compliance determinations, enforcement decisions, enforcement decision execution and review, and external affairs.

Alabama has the authority to pursue both informal and formal administrative enforcement actions. Recommendations for referral for civil enforcement are made to the Alabama Attorney General for prosecution. Upon request by ADEM's Office of General Counsel (OGC), the Attorney General may approve that the complaint be filed in circuit court by OGC.

Local Agencies Included/Excluded from Review

There are two local CAA agencies delegated below the state level to conduct work in the programs evaluated under the SRF – Jefferson County and the City of Huntsville. An independent SRF review was completed at the city of Huntsville during FY2009. The Jefferson County CAA program was reviewed in FY2006 during Round 1 of the SRF.

Resources

The resource information below was provided by ADEM, and was not verified by EPA for the SRF Report. The information represents the Full Time Equivalent (FTE) positions for the implementation of the state's compliance and enforcement programs reviewed under the SRF:

CAA Resources (Stationary Sources):

- FTE (current): ADEM has approximately 33.1 FTE available to implement the state's compliance monitoring and enforcement program, which represents:
 - 23.6 FTE for the staff that is specifically assigned to the regulated sources and is responsible for all compliance monitoring activities and enforcement activities (except stack test observation and stack test report reviews).
 - 8.1 FTE for the staff in the stack testing groups (staff that conduct tests, observe tests and review test reports).
 - 1 FTE for staff that are in our field patrol group.
 - 0.4 FTE for staff responsible for AFS data uploads and management.

CWA Resources: FTE (current): ADEM has approximately 56 FTE available to implement the state's compliance monitoring and enforcement programs.

RCRA Resources: FTE (current): ADEM has approximately 14.5 FTE available to implement the state's compliance monitoring and enforcement programs.

Staff/Training

CAA, CWA, and RCRA: Due to the requirement to hire from registers established by the state's personnel department and the inability to offer candidates salaries commensurate with their work experience levels, the typical new employee has very little, if any, work experience in the environmental area. Once hired, all employees are expected to complete a suite of training courses including appropriate EPA courses. Each novice employee is mentored by one or more veteran employees and is accompanied during numerous field inspections to determine whether the employee has received adequate training.

Data Reporting Systems/Architecture

CAA - ADEM currently utilizes a combination MS Access/Oracle database (AIRSInfo) to manage the data related to the implementation of its air pollution control program (program). The staff interact with the database through MS Access front ends, but the data is stored in an Oracle back end. AIRSInfo maintains the permitting, compliance, enforcement, and emissions data for the majority of industry sectors regulated by the program. In addition to the AIRSInfo database, the ADEM-AD also maintains a MS Access database for Stack Test Reporting (STREP) which manages the data related to the stack tests conducted at facilities and the reports reviewed by ADEM personnel. The STREP database was developed prior to the development of the AIRSInfo database and the two are not integrated. However, a module in AIRSInfo is currently being developed to integrate the stack testing data into AIRSInfo. The CAA Minimum Data Requirements (MDRs) are extracted from AIRSInfo and STREP, compiled into the appropriate batch transaction format, and uploaded using the Enterprise Server Web Access to transmit the data to the AFS System. The data is uploaded once a month by the 20th of each month.

CWA - ADEM utilizes its NPDES Management System (NMS) to manage data related to the CWA. This system has been in production since 2007 along with the related E2-eDMR system. All Discharge Monitoring Report (DMR) data is transferred daily from NMS to EPA ICIS-NPDES using the Alabama Exchange Network Node. Alabama is a member of the ICIS-NPDES Integrated Project Team (IPT), and is also a Pilot Test State, for the full batch (node) flow of the non-DMR data to ICIS-NPDES. We anticipate that virtually all manual data-entry into ICIS-NPDES will cease upon implementation of the Full Batch planned for mid-2011. Implementation is largely dependent on EPA and its contractor.

Alabama's eDMR system is full production, with over 500 facilities using the system for DMR reporting. DMR data submitted via the eDMR system transfers to NMS, then to ICIS-NPDES via the Exchange Network.

ePermit is a web-based system for Construction Stormwater permit applications, allowing also the tendering of permit fees. Applications submitted on-line transfer to NMS for completion, and other data and program management functions.

NMS houses virtually all data related to all NPDES facilities. Additionally, other regulatory programs, although not strictly “NPDES,” programs such as Underground Injection Control, 401 WQC, Coastal Zone, manage their data in NMS.

-NMS is a Microsoft VB.NET client server-application that uses a MS-SQL database as the “back-end.”

E2-eDMR is a Microsoft ASP.NET web application that uses a MS-SQL database as the “back-end.”

ePermit is a Microsoft ASP.NET web application that uses a MS-SQL database as the “back-end.”

RCRA - The ADEM Land Division uses EPA’s RCRAInfo database to manage RCRA-related data. ADEM hazardous waste program staff (permitting, corrective action, compliance, enforcement, and program support) routinely update all programmatic modules of the database (including the Compliance/Enforcement module) using direct data entry, and staff and supervisors routinely verify data accuracy and generate programmatic reports from the database.

Annual hazardous waste notifications (8700-12) are managed by the Permit & Services Division personnel, with data entered manually or through the ADEM ePermit system. ADEM’s ePermit system is utilized to accept Hazardous Waste Notification registrations. The Department is in the process of configuring the flow, utilizing its Exchange Network node, of the 8700-12 data to the RCRAInfo waste handler module.

B. Major State Priorities and Accomplishments

The SRF is designed to evaluate specific compliance and enforcement elements, and there may be state priorities and accomplishments that are not captured in the SRF findings. The following information on state priorities and accomplishments was provided voluntarily by ADEM in May 2010. However, the information has not been verified by EPA and may not reflect activities that were ongoing during the time period of the SRF review (FY2008).

Transparency - Public Notices on Enforcement Orders

One of ADEM’s priorities is transparency in government. Alabama is one of two states in Region 4 that provides a public comment period on administrative enforcement orders with penalties. A public notice is published in the local newspaper, the closest major daily newspaper, and on the ADEM website.

The draft order worksheet is available on the website. The six penalty factors required to be considered by the Alabama Environmental Management Act are discussed in the draft order and the penalty worksheet. Any citizen can review the proposed order and the penalty worksheet, and make comments. The Department reviews these comments, makes appropriate changes to the proposed order and prepares a response to comments.

Transparency - E-file

The Department implemented eFile June 1, 2009 in order to provide permittees, the public, and stakeholders with free, web-based access to documents stored in the Department's electronic document management system. Since then, the eFile website has had over 27,000 "hits." In February 2010, eFile was upgraded to provide much better performance and allow users to easily locate permit numbers and master ID numbers. The ability to perform highly granular document queries relative to document type was also added to eFile in the February upgrade.

With over 1.1 million electronic documents, and growing, the ADEM eFile system provides a powerful and user-friendly interface that may be used to quickly retrieve documents such as public notices, permits, discharge monitoring reports, enforcement-related documents, and a host of others that the Department stores in electronic format.

eFile searches may be confined to a single media area (Land, Air, Water), or may be specified to cross media areas. The searches may use simple names, or, for power-users, searches may be constructed using permit numbers, or a master id number, even in combination with a spatial specification such as county, and/or in combination with a document type.

Please visit ADEM' site at: <http://edocs.adem.alabama.gov/eFile/>

Compliance Assistance

ADEM created the Office of Innovation in 2008 to identify new methods of regulating facilities in a more cooperative environment. Two existing programs, Pollution Prevention and NPDES Compliance Assistance, were folded into the new effort. The mission of the group is to improve business practices, foster source control and prevent pollution, assist small businesses in targeted business sectors and improve struggling municipal wastewater plant performance. In the past two years, over a hundred compliance assistance reviews have been conducted helping performance of wastewater treatment plants, saving energy and maintaining compliance with environmental rules.

Another successful initiative has been the ADEM Regulatory Update conference. The full-day conference provides an overview of recent regulatory changes and highlights information to assist compliance efforts. The May 2008 conference was attended by over 200 people from across the state and included personnel from U.S., state, and local government agencies, regulated entities, environmental advocacy groups, environmental consultants, the media and the general public. The 2008 presentations by Department personnel were preceded by a week long, intense training course by the Alabama Training Institute at Auburn University

Montgomery to professionally hone the presentations given during the update. Topics include: air issues such as internal combustion engines, start-up, shutdown, malfunctions; water issues such as TMDL's, MS4 permits, resource extraction permits, eDMR's; and waste issues such as coal ash, recycling, Uniform Environmental Covenants Act. The event proved to be so successful that it was repeated in 2009 and 2010.

eData Implementation

ADEM operates and maintains a number of regulatory databases that store and manage data related to compliance inspections. Currently, a majority of the data related to inspections is collected using pen-and-paper with data ultimately being transcribed by hand-entry into databases. A notable exception to this paradigm is the Scrap Tire program that uses a tablet-based system developed by the Department. The eData project has been implemented in order to realize improvements in efficiency and accuracy and to reduce the cost of acquiring and managing regulatory data. A general electronic inspection report processing engine has been developed. This data model is being employed in program-specific electronic inspection report applications and will include all media.

CWA Program

For the CWA program, ADEM would like to highlight the following accomplishments:

- The trend in issuing priority permits for the past four years has been 100% or greater, exceeding the national goal of 95% and the NPDES Permit Program has been recognized by EPA for maintaining a low permit backlog (i.e., 90% current) in FY05.
- Revisions to the Department's NPDES regulations to allow the establishment of schedules of compliance in NPDES permits to achieve total maximum daily loads (TMDLs) were adopted by the Environmental Management Commission.
- In fiscal year 2008, revisions to the state's water quality human health criteria were adopted resulting in more stringent criteria. Specifically, these revisions resulted in the addition of the Relative Source Contribution factor for 14 non-carcinogenic pollutants, the reduction in the cancer risk level for 57 carcinogenic pollutants, and the reduction in human health criteria for acrolein and phenol. These revisions to quality standards have resulted in more stringent permit limitations for the affected NPDES permitted facilities.
- In 2007, the Department added the Outstanding Alabama Water (OAW) classification to Wolf Bay in Baldwin County and upgraded the classification of Black Creek in Etowah County from Agricultural and Industrial Water Supply (A&I) to Fish and Wildlife. In 2009, the Department was able to add the OAW classification to Magnolia Creek in Baldwin County. As of January 2010, Alabama has only 17 stream segments classified as Limited Warm Water or A&I, and 15 stream segments are classified as OAW.
- During 2007 and 2008, a new state NPDES NMS database which combines all NPDES permit and compliance functions into one common database was acquired and brought

online. All NPDES applications and permits are processed via the NMS database which is compatible with ICIS-NPDES. ADEM is one of just a few states that have a routine node flow of DMR data to ICIS-NPDES. EPA does not have the capability for NODE flow of permit limits, facility data or compliance and enforcement data to ICIS-NPDES. In this regard, Alabama is one of the pilot states for development and testing of facility data flow into ICIS-NPDES. When NODE flow of all this data is available, it is anticipated that the information in ICIS-NPDES will be more complete and accurate related to the data elements in the SRF.

- In 2008, the Department began providing a web-enabled electronic environmental (E2) reporting system for wastewater facilities to streamline the management of DMRs required under the Alabama NPDES program. The E2 DMR system provides wastewater facilities with an alternative way to submit DMR data and allows ADEM to electronically validate the data, acknowledge receipt and upload data to the State's central wastewater database. DMR data flow from NMS to ICIS-NPDES has also begun. Continued implementation of this new system will improve the management of data associated with the Department's wastewater monitoring program. The Department has marketed this program through avenues such as press releases, the ADEM Annual Report, regulatory conferences, the cover letter of NPDES permits, and articles published in periodicals affecting the regulated community. In conjunction with this effort, the Department has contracted for the presentation of thirty seminars to encourage the use of e-DMRs. Additionally, the Department is requiring the use of e-DMRs in many enforcement and permitting actions.
- In 2008, the Department began providing a construction stormwater E2 reporting system to streamline the management of notice of registrations (NORs). The e-NOR system provides construction stormwater registrants with an alternative way to submit NOR data and allows ADEM to validate the data electronically, acknowledge receipt, and upload data to the state's central wastewater database. In addition, Alabama has plans to increase the opportunities for electronic application submission by use of E2 for the general permit program (i.e., e-NOI).
- In 2008, the Department established the Office of Environmental Quality (OEQ) to centralize all quality activities. Led by a Quality Assurance Manager, the OEQ coordinates development and implementation of Department-wide programs and certain program quality systems. ADEM promotes the continued development of an integrated system of management activities involving planning, implementation, assessment, reporting, and quality improvement to ensure all processes and services are of the type and quality necessary to make sound environmental decisions. Currently, the OEQ is working with a team of staff to develop an NPDES/SID program process for quality information reporting. The procedures, outlined in a Standard Operating Procedure document, will describe the coordination between the various aspects of the NPDES program and the Environmental Data Section of Permits and Services Division to assure the data provided in the ICIS-NPDES database meet the ICIS-NPDES target quality objectives.

Air

For the CAA program, ADEM would like to highlight the following accomplishments:

- EPA's Compliance Monitoring Strategy only requires each program conduct a full compliance evaluation once every two years for major sources and once every five years for synthetic minor sources (PTE>80% of major source threshold). The Department has continued its commitment to maintaining a greater field presence to promote compliance by conducting a full compliance evaluation (with an on-site visit) once a year for both major sources and synthetic minor sources (PTE>80% of major source threshold). This practice greatly exceeds EPA's minimum CMS requirements.
- The Department conducts a thorough review of 100% of the stack test protocols submitted and stack test reports received. In addition, the Department typically observes one-third or more of the scheduled stack tests conducted each year. These practices promote more representative testing conditions and ensure a higher level of confidence in the stack test results reported.
- The Department maintains equipment and staff that perform unannounced stack tests at regulated sources. Each year, approximately 10 sources are targeted for testing. This practice exceeds EPA's minimum CMS requirements.
- The Department maintains equipment and staff that perform unannounced audits and RATA's of COMS and CMS at regulated sources. Each year, approximately 20 monitors are targeted to verify the accuracy and quality of the emissions data gathered. This practice exceeds EPA's minimum CMS requirements.

RCRA Program

For the RCRA program, the ADEM Land Division would like to highlight the following accomplishments:

- The Department conducted a School Chemical Cleanout Program during 2008. The program focused on removing hazardous waste chemicals from schools and educating the schools on alternate techniques to prevent any future accumulations of similar chemicals. During 2008, the Department removed over 6,600 pounds of waste chemicals from 23 Alabama schools with a combined enrollment of over 12,000 students.
- During 2008, several members of the Department were very active participants in national environmental organizations that work closely with EPA to ensure that their members are aware of the most current developments related to RCRA, and to coordinate the work of State regulators with that of EPA. Additionally, the Department also provided input and comments to numerous RCRA rules proposed by EPA.
- Due to concern that hospitals may have been mismanaging acute hazardous waste, the Department targeted compliance assistance visits and inspections in 2008 at government-

owned hospitals. The activities provided the Department a better understanding of the management of medical and hazardous waste at the hospitals. The activities also revealed that the frequency of acute hazardous waste generation at medical facilities is much lower than originally estimated.

- The Department continued to conduct 24-hours-a-day/ 7-days-a-week monitoring at the Army's chemical demilitarization facility (ANCDF) on the Anniston Army Depot (ANAD). ANCDF is a hazardous waste destruction facility specifically designed and built to destroy nerve and mustard agents stored at ANAD. The Department spent over 8,700 man hours in FY2008 monitoring ANCDF to insure that they were adhering to their permit and to all regulatory requirements. In addition to ANCDF, the Army has three other operational chemical agent incineration sites. ANCDF is the only one of the four sites that is monitored 24/7 by their state regulatory agency.
- The Department inspected 100% of the governmental large quantity and small quantity generators of hazardous waste during the FY2007 – FY2008 timeframe. This practice significantly exceeds the yearly RCRA grant requirements.
- During 2008, the Department published numerous RCRA related guidance documents which were posted on the ADEM website to maximize exposure to all interested parties. The documents included the Alabama Risk-Based Corrective Action Guidance Manual and the following fact sheets: Small Quantity Generator, The Conditionally Exempt Small Quantity Generator, The Used Oil Generator, Notification of Regulated Waste Activity, Farm Pesticide and Container Disposal, Cathode Ray Tubes, Household CRTs – Management and Disposal, Fluorescent and High-Intensity Discharge Lamps, School Chemical Laboratory Waste, Management and Disposal of Household Antifreeze, and Household Mercury-Containing Devices.
- The Department was an active participant in numerous reoccurring national conference calls in FY2008 dealing with important issues such as the National Mercury Switch Removal Program, the Mercury Thermostat Collection Program, and the Definition of Solid waste.

C. Process for SRF Review

The Alabama SRF Round 2 was initiated with a face-to-face meeting at ADEM offices on September 3, 2008. During this meeting, the expectations and procedures of the SRF were reviewed and a tentative schedule for the SRF process was discussed. On January 13, 2009, a kick-off letter was sent to the ADEM Deputy Director from the EPA Region 4 Regional Counsel and Director of the Office of Environmental Accountability. On February 13, 2009, the Preliminary Data Analysis (PDA) and File Selections for all three media were sent to the state. During the week of February 23-27, 2009, the onsite CAA and CWA file reviews were conducted at ADEM offices in Montgomery, Alabama. The RCRA onsite file review took place during the week of March 16-20, 2009. The fiscal year of the ADEM SRF review was FY2008.

State and EPA Region 4 Contacts:

| | Alabama | EPA Region 4 |
|------------------|---|---|
| SRF Coordinators | Marilyn Elliott- Deputy Director | Shannon Maher - Office of Environmental Accountability (SRF Coordinator) Steve Hitte – Chief, Analysis Section, Office of Environmental Accountability |
| CAA | Larry Brown - Chief, Chemicals Branch, Air Division Tim Owen - Chief, Energy Branch Air Division Christy Monk - Chief, Natural Resources Section, Chemicals Branch, Air Division | Mark Fite - Office of Environmental Accountability Stephen Rieck – Air & EPCRA Enforcement Branch, Air, Pesticides & Toxics Management Division |
| CWA | Chip Crockett – Chief, NPDES Enforcement Branch, Water Division | Shelia Hollimon - Office of Environmental Accountability Laurie Jones - Clean Water Enforcement Branch, Water Protection Division |
| RCRA | Stephen Cobb - Chief, Governmental Hazardous Waste Branch, Land Division Jeff Kitchens - Chief, Industrial Hazardous Waste Branch, Land Division, Land Division Clethes Stallworth - Chief, Compliance & Enforcement Section, Industrial Waste Branch, Land Division Ron Shell - Chief, Compliance & Enforcement Section, Governmental Hazardous Waste Branch, Land Division | Connie Raines - Office of Environmental Accountability Brian Gross – RCRA & OPA Enforcement & Compliance Branch, RCRA Division |

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEW

In the final ADEM SRF Round 1 Report, dated January 19, 2007, there were 17 recommendations for improvement across the three programs (see appendices for a full description of these recommendations). Subsequent to the report, EPA and ADEM held several discussions about the implementation of the recommendations. ADEM reported that many of the recommendations had been implemented, and provided a revised Compliance and Enforcement Strategy (ADEM Memorandum #105), dated September 4, 2007, in response to the CWA recommendation for modifying enforcement response procedures. During the SRF Round 2

evaluation, the status of the recommendations was assessed and it was determined that six of the 17 recommendations had been implemented (two in the CWA program and four in the RCRA program). The status of the implementation of the SRF Round 1 recommendations is provided in the corresponding SRF findings below.

IV. FINDINGS

The findings for the ADEM Round 2 SRF evaluation are listed below, by media, for Elements 1 through 12. For each Element, a finding is made in one of the four following categories:

- “Meets SRF Program Requirements” – This indicates that no issues were identified for that element.
- “Area for State Attention” – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies are being implemented with minor deficiencies that would benefit from state attention to in order to strengthen its performance, but are not significant enough to require the region to identify and track state actions to correct. This can describe a situation where a state is implementing either EPA or state policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the State should self-correct without additional EPA oversight. However, the state is expected to improve and maintain a high level of performance.
- “Area for State Improvement” – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies that are being implemented by the state have problems that need to be addressed and that are significant enough to require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or state policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems, and should have well defined timelines and milestones for completion. The recommendations will be monitored in the SRF Tracker.
- “Good Practice” – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies are being implemented exceptionally well and which the state is expected to maintain at a high level of performance. This may include specific innovative and noteworthy activities, processes, or policies that have the potential to be replicated by other states and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.

CAA Program

| CAA Element 1 – Data Completeness | | | | | | | | | | |
|--|---|--------------------|----------------------|--------------|--|------|-----|-----------------------------------|------|----|
| Degree to which the Minimum Data Requirements are complete. | | | | | | | | | | |
| Finding: | In general, the state has ensured that all MDRs were entered into the Air Facility Subsystem (AFS), with the exception of NSPS, NESHAP, and MACT subprogram designations. | | | | | | | | | |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | | |
| Explanation: | <p>The state’s results for Data Metrics 1C4, 1C5, and 1C6 (80%, 0%, and 89.8%, respectively) fell below the national goal of 100%. These metrics measure the extent to which the state entered the NSPS, NESHAP, and MACT subprogram designations into AFS. This information became an MDR for sources with full compliance evaluations (FCEs) conducted after 10/1/05. Since over 100 sources were missing the applicable subpart for NSPS, NESHAP, or MACT, this is designated as an area for state attention. However, the state has made appropriate adjustments in AFS to the subpart data for NSPS, MACT, and NESHAP, and their percentages for Data Metrics 1C4, 1C5, and 1C6 have now achieved the national goal of 100%. For new NSPS, NESHAP, and MACT sources receiving an FCE for the first time, the state should ensure that the applicable subpart information is entered into AFS when the FCE is entered.</p> <p>The state met the national goal of 100% for Data Metrics 1H1, 1H2, and 1H3, which measure completeness in reporting of HPV-related MDRs.</p> <p>With the exception of Data Metric 1K, the state did not provide any corrections to EPA’s official data set (ODS) for the remaining metrics. Data Metric 1K indicated that 26 facilities were missing the CMS policy applicability in AFS. The state noted that only 3 of the 26 sources should have been included in the CMS universe for FY08. The remaining sources were appropriately excluded from the CMS universe for one of the following reasons: permanently closed; new Major source in FY08 or later; subject to PSD only; or miscoded in AFS. The corrected data represents less than 1% of the universe of applicable sources, so it does not constitute a significant concern. Therefore, no further action is recommended.</p> | | | | | | | | | |
| Metric(s) and Quantitative Value | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Data Metric</u></th> <th style="text-align: center;"><u>National Goal</u></th> <th style="text-align: center;"><u>State</u></th> </tr> </thead> <tbody> <tr> <td>1C4 - CAA subprogram designation: % NSPS facilities with FCE Conducted after 10/1/05</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">80%</td> </tr> <tr> <td>1C5 - CAA subprogram designation:</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">0%</td> </tr> </tbody> </table> | <u>Data Metric</u> | <u>National Goal</u> | <u>State</u> | 1C4 - CAA subprogram designation: % NSPS facilities with FCE Conducted after 10/1/05 | 100% | 80% | 1C5 - CAA subprogram designation: | 100% | 0% |
| <u>Data Metric</u> | <u>National Goal</u> | <u>State</u> | | | | | | | | |
| 1C4 - CAA subprogram designation: % NSPS facilities with FCE Conducted after 10/1/05 | 100% | 80% | | | | | | | | |
| 1C5 - CAA subprogram designation: | 100% | 0% | | | | | | | | |

| | |
|-----------------|---|
| | <p>% NESHAP facilities with FCE Conducted after 10/1/05</p> <p>1C6 - CAA subprogram designation: 100% 89.8%</p> <p>% MACT facilities with FCE Conducted after 10/1/05</p> <p>1H1 - HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery 100% 100%</p> <p>1H2 - HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/1/05 100% 100%</p> <p>1H3 - Percent DZs reported after 10/1/05 10/1/05 with HPV Violation Type Code 100% 100%</p> <p>1K - Major sources missing CMS Policy Applicability 0 3 (corrected)</p> |
| State Response: | <p>The SRF Data Metric 1K erroneously assumes that any source classified as a major source at the plant level should be identified as a major source subject to the CMS policy. However, due to the State of Alabama’s continued regulation of total suspended particulates (TSP), the State has numerous sources that are major sources under the PSD air program due to their potential to emit TSP and are minor source under the Title V air program due to their potential to emit PM₁₀/PM_{2.5}. In AFS, Alabama has correctly entered these sources as not being subject to the CMS policy.</p> |
| Action(s): | <p>No further action needed.</p> |

| CAA Element 2 – Data Accuracy | |
|---|--|
| Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.). | |
| Finding: | <p>The majority of data reported into the national system is accurately entered and maintained. However, the state’s reporting of the compliance status of HPV sources is not consistent with national policy.</p> |
| Is this finding a(n) (select one): | <p><input type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for State Attention</p> <p><input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required</p> <p><input type="checkbox"/> Good Practice</p> |
| Explanation: | <p>During the file review, 26 of the 36 files (72%) reviewed contained documentation to confirm that MDRs were reported accurately into AFS. Five files were missing the appropriate MACT subpart in AFS, and one file was missing an applicable NSPS subpart. Four files had a single inaccurate data item such as SIC code or address. Two files indicated that one or more key milestones (ACC review, or Stack Test failure) were not reported in AFS. During and immediately following EPA’s onsite review, the state made a concerted effort to add the missing data and correct inaccuracies. With the exception of the missing MACT subpart information (which has been addressed as discussed under</p> |

| | <p>Element 1), these issues are isolated, non-systemic occurrences that are not expected to be repeated, so no further action is recommended.</p> <p>In the PDA, EPA identified the state’s value of 116.7% for Metric 2a as a potential concern. This metric is designed to provide an indication of whether Compliance Status is being accurately reported. EPA’s Plain Language Guide for the CAA data metrics indicates that a value close to 100% suggests a high likelihood that the state is only reporting violations on HPVs. A value well above 100% (as is the case with ADEM) suggests that the state is likely <u>not</u> reporting violations related to HPVs (or other non-HPV violations). A drill-down of the Metric 2a data indicates that 6 facilities which had HPVs during the review year were not coded as being in non-compliance status during that year. Three of these facilities were evaluated during the file review. Of these, one facility failed to apply for a Title 5 permit, which was coded as an HPV, but the facility was never coded as being in violation. The other two facilities were initially placed in non-compliance status (AFS code 1) prior to the FY2008 review year, but their status was changed to “in compliance” (AFS code 4) prior to the resolution of the HPV. This practice is not consistent with the HPV Policy, which defines “in compliance” as “all Federal and State administrative and judicial action against the source is complete and the source has been confirmed to be complying with the CAA.” This would include payment of any outstanding penalties, completion of any injunctive relief, and application for any permits.</p> <p>In addition to the above concerns with the coding of compliance status, it appears the state is coding HPVs as “resolved” on the date a final order is issued. However, although the HPV is “addressed” on that date, it is not “resolved” until the penalty has been paid and all injunctive relief has been completed.</p> <p>Given that all three of the files reviewed confirmed that there are issues with how the compliance status of HPV sources is being reported in AFS, this is an area for state improvement. The Region’s recommendations for this element are provided below.</p> | | | | | | | | | | | | | | | | | | |
|--|--|--------------|---------------|-------|------------------------------------|-------|--------|--|----|------|----------------------------------|----|----|----------------------------|--|--------------|--|-----|--|
| <p>Metric(s) and Quantitative Value</p> | <table border="1"> <thead> <tr> <th data-bbox="467 1516 971 1545">Data Metric</th> <th data-bbox="993 1516 1175 1545">National Goal</th> <th data-bbox="1312 1516 1377 1545">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="467 1549 971 1579">2a – No. of HPVs/No. of NC sources</td> <td data-bbox="993 1549 1175 1579">≤ 50%</td> <td data-bbox="1312 1549 1377 1579">116.7%</td> </tr> <tr> <td data-bbox="467 1583 971 1612">2b1 - % Stack Tests w/o Pass/Fail result</td> <td data-bbox="993 1583 1175 1612">0%</td> <td data-bbox="1312 1583 1377 1612">0.5%</td> </tr> <tr> <td data-bbox="467 1617 971 1646">2b2 - No. of Stack Test Failures</td> <td data-bbox="993 1617 1175 1646">NA</td> <td data-bbox="1312 1617 1377 1646">21</td> </tr> <tr> <td colspan="2" data-bbox="467 1696 1295 1726"><u>File Review Metrics</u></td> <td data-bbox="1312 1696 1377 1726"><u>State</u></td> </tr> <tr> <td data-bbox="467 1730 971 1759">2c - % files w/ MDR data accurate in AFS</td> <td colspan="2" data-bbox="993 1730 1377 1759">72%</td> </tr> </tbody> </table> | Data Metric | National Goal | State | 2a – No. of HPVs/No. of NC sources | ≤ 50% | 116.7% | 2b1 - % Stack Tests w/o Pass/Fail result | 0% | 0.5% | 2b2 - No. of Stack Test Failures | NA | 21 | <u>File Review Metrics</u> | | <u>State</u> | 2c - % files w/ MDR data accurate in AFS | 72% | |
| Data Metric | National Goal | State | | | | | | | | | | | | | | | | | |
| 2a – No. of HPVs/No. of NC sources | ≤ 50% | 116.7% | | | | | | | | | | | | | | | | | |
| 2b1 - % Stack Tests w/o Pass/Fail result | 0% | 0.5% | | | | | | | | | | | | | | | | | |
| 2b2 - No. of Stack Test Failures | NA | 21 | | | | | | | | | | | | | | | | | |
| <u>File Review Metrics</u> | | <u>State</u> | | | | | | | | | | | | | | | | | |
| 2c - % files w/ MDR data accurate in AFS | 72% | | | | | | | | | | | | | | | | | | |
| <p>State Response:</p> | <p>The State believes that the comments about the MACT/NSPS subparts, SIC Code, and address are outside the scope of Data Element 2 as described in the <i>State Review Framework CAA Data Metrics – Plain</i></p> | | | | | | | | | | | | | | | | | | |

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| | <p><i>Language Guide.</i> In addition, the completeness of the subpart information in AFS has already been addressed in Data Element 1.</p> <p>Regarding the coding of facilities as being in “non-compliance”, it is the State’s standard practice to code all sources in AFS as “In Violation” upon the issuance of a Notice of Violation (or Order, if no NOV is issued). Any sources that did not appear as “In Violation” in AFS according to the Compliance History were either unintended omissions or sources that returned to compliance so quickly that their “In Violation” status was not of a duration long enough to be captured by the monthly compliance status snapshot.</p> <p>Regarding the returning of facilities to “In Compliance Status” prior to the resolution of all enforcement, it has been the State’s standard practice to change the compliance status of a source to the appropriate “In Compliance” status once they are in compliance with all emission standards and procedural requirements even if the formal enforcement action has not been completed. AFS does not have a compliance status code that appropriately reflects this common situation. The “Meeting Compliance Schedule” status still implies that a source is not in compliance. Therefore, the State does not believe that it is appropriate to incorrectly label a facility as being out of compliance for the sole reason that the enforcement process has not been completed. This situation occurs in the majority of the State’s CAA enforcement cases. The State recommends that an appropriate compliance status code be established in AFS to address this scenario. In the interim, the State will code such sources as “Meeting Compliance Schedule” until all enforcement is concluded.</p> <p>Regarding the coding of an HPV as “resolved” prior to the receipt of the penalty payment. This has been the State’s standard practice because the responsibility of tracking penalty payments lies with the Department’s Office of General Counsel. However, the State will expend additional resources to change this practice to ensure that HPV’s are not coded as resolved until all penalty payments have been received.</p> <p>It is not the State’s standard practice to code an HPV as “resolved” prior to the completion of all actions specified in the compliance schedule within an Order. It does not appear that EPA’s review noted any such occurrences.</p> |
| <p>Action(s):</p> | <p>Within three months of the date of the final SRF report, ADEM should implement procedures that ensure that the compliance status and HPV status codes are properly entered into AFS consistent with national HPV Policy. The EPA Region 4 Air & EPCRA Enforcement Branch and the ADEM Air Enforcement Division will evaluate progress on the data entry during the monthly conference calls.</p> |

| CAA Element 3 - Timeliness of Data Entry | | | |
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| Degree to which the Minimum Data Requirements are timely. | | | |
| Finding: | The timeliness of MDR data entry is very good for both “enforcement” and “compliance monitoring” related MDRs. Although timeliness of MDR reporting for HPVs was short of the national goal, EPA makes HPV determinations on behalf of the state and enters them into AFS. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | <p>The data metrics for timeliness of enforcement and compliance monitoring MDR entry (3b1 and 3b2) demonstrate that the state’s performance very closely approaches the national goal of 100%. With respect to the timeliness of High Priority Violators (HPV) reporting, about 52% (29 of 56) of all HPVs during the review period were not entered within the 60 days required by the information collection request (ICR) approved by OMB. Five of these late entries (9%) were over 120 days, 10 of them (18%) were between 90 to 120 days, and 12 of them (21%) were between 60 to 90 days. In addition, 2 (3%) HPVs were entered into AFS over 8 months prior to day zero causing uncertainty on whether there is untimely reporting. The state and EPA have a long-standing practice of EPA determining HPVs on behalf of the state. By the 10th day of each month, the state provides EPA a monthly Compliance Report which identifies new violators for the previous calendar month. EPA then makes a determination as to whether each new violation constitutes an HPV, and codes the violation appropriately into EPA’s air national data system called AFS. The untimely reporting of HPVs is either due to the violation not being reported by ADEM in their monthly compliance report or EPA not coding the HPV into AFS. ADEM, upon review of this data, identified only one occasion in which they failed to include a violation in the monthly report which resulted in late entry of the HPV. During the review period (FY 08), EPA transitioned to a new state coordinator, and his learning curve may have accounted for some of the delays in HPV entry. An analysis of FY 09 performance indicates only 2 of 20 HPVs (10%), were reported untimely, which is a significant improvement in the timeliness of HPV reporting. Therefore, based on this improvement and the greater familiarity of the new EPA coordinator with the process, no further action is recommended.</p> | | |
| Metric(s) and Quantitative Value | <u>Data Metrics</u> | <u>National Goal</u> | <u>State</u> |
| | 3a - % HPVs entered in ≤ 60 days | 100% | 48.2% |
| | 3b1 - % CM MDRs entered in ≤ 60 days | 100% | 94.6% |
| | 3b2 - % Enf. MDRs entered in ≤ 60 days | 100% | 97.4% |
| State Response: | | | |

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| Action(s): | No additional action needed. |
|------------|------------------------------|

CAA Element 4 - Completion of Commitments

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

| | | | | | | | | | |
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| Finding: | All enforcement and compliance commitments in relevant agreements have been met. | | | | | | | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | |
| Explanation: | ADEM, which follows a traditional Compliance Monitoring Strategy (CMS) plan, completed all planned evaluations, and further discussion is presented under Element 5. In addition, the state met all of its enforcement and compliance monitoring commitments (100%) under the FY2008 Air Planning Agreement with EPA Region 4. | | | | | | | | |
| Metric(s) and Quantitative Value | <table border="0"> <tr> <td><u>File Review Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>4a - Planned evaluations completed for year of review pursuant to CMS plan</td> <td style="text-align: right;">(see Element 5)</td> </tr> <tr> <td>4b – Planned commitments completed</td> <td style="text-align: right;">100%</td> </tr> <tr> <td colspan="2">(See the Metric 4B table in the appendix for a more detailed analysis)</td> </tr> </table> | <u>File Review Metrics</u> | <u>State</u> | 4a - Planned evaluations completed for year of review pursuant to CMS plan | (see Element 5) | 4b – Planned commitments completed | 100% | (See the Metric 4B table in the appendix for a more detailed analysis) | |
| <u>File Review Metrics</u> | <u>State</u> | | | | | | | | |
| 4a - Planned evaluations completed for year of review pursuant to CMS plan | (see Element 5) | | | | | | | | |
| 4b – Planned commitments completed | 100% | | | | | | | | |
| (See the Metric 4B table in the appendix for a more detailed analysis) | | | | | | | | | |
| State Response: | | | | | | | | | |
| Action(s): | No further action needed. | | | | | | | | |

CAA Element 5 – Inspection Coverage

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

| | |
|------------------------------------|---|
| Finding: | Alabama met the annual inspection and compliance evaluation commitments for FY2008. |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | The state's Compliance Monitoring Strategy (CMS) plan committed to conduct FCEs at all Title V Major sources and all Synthetic Minor 80% (SM80) sources in the FY 2008-2009 CMS cycle. Based on the data metrics, the state completed 100% of its FCEs at Major sources (Metric 5a1) and 100% of its SM80 sources (Metric 5b1) during the relevant CMS timeframe (2 years for majors, 5 years for SM80s). The state also reviewed 100% of the Title V annual compliance certifications (Metric 5g). For all metrics in this element, the state met the national goal, so no further action is needed. |

| Metric(s) and Quantitative Value | Data Metrics | National Goal | State |
|----------------------------------|--|---------------|-------|
| | 5a1–FCE coverage-Majors (CMS cycle) | 100% | 100% |
| | 5a2–FCE coverage-All Majors (last 2 FY) | 100% | 98.6% |
| | 5b1–FCE coverage-SM80 (CMS cycle) | 20-100% | 100% |
| | 5b2–FCE coverage-CMS SM80 (last 5 FY) | 100% | 100% |
| | 5c-FCE/PCE coverage-All SMs (last 5 FY) | NA | 97.1% |
| | 5d-FCE/PCE coverage-other minors (5 FY) | NA | 85.8% |
| | 5g-Review of Self Certifications completed | 100% | 100% |
| State Response: | | | |
| Action(s): | No further action needed. | | |

CAA Element 6 – Quality of Inspection or Compliance Evaluation Reports

Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

| | | | |
|------------------------------------|--|--|-------|
| Finding: | Compliance evaluation reports properly document observations, and include an accurate description of observations. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | <p>All 36 files reviewed had FCEs conducted during the review period (FY08). Thirty four of the 36 files reviewed (94%) had sufficient documentation in the files to show that they contained all of the elements of the FCE. In addition, 34 of the 36 site files reviewed (94%) contained all of the CMR requirements, and they contained sufficient documentation to determine compliance at the facility. With respect to the other two files, one facility inspection report did not sufficiently document the required elements of an FCE. ADEM acknowledged that the inspection report lacked sufficient detail, and agreed to ensure that future inspection reports include all the required elements outlined in their guidance entitled “Components of an Inspection Memo.” Another facility was closed and not operating at the time of the inspection, so many required elements could not be evaluated. The state indicated that the facility had notified ADEM that operations had temporarily ceased at this location, and the purpose of this inspection was to verify the ceased operations, which was successfully accomplished.</p> | | |
| Metric(s) and Quantitative Value | File Review Metrics | | State |
| | 6a – No. of FCEs reviewed | | 36 |
| | 6b – % FCEs that meet definition | | 94% |
| | 6c – % CMRs sufficient for compliance determination | | 94% |
| State Response: | | | |
| Action(s): | No further action needed. | | |

| CAA Element 7 - Identification of Alleged Violations | |
|---|---|
| Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information). | |
| Finding: | In general, compliance determinations are accurately made and promptly reported into AFS based on inspection reports and other compliance monitoring information. |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>With respect to the state’s compliance determinations, 35 of 36 files reviewed (97%) led to an accurate compliance determination in AFS. As noted previously, the one facility which was an outlier was closed when the inspection was done.</p> <p>The PDA highlighted a concern that facilities with potential violations (e.g. failed stack tests) were not being coded as being in non-compliance in AFS (metric 7c1). To address this issue, three files (one representative and two supplemental files) were evaluated from the list of 7 facilities with a stack test failure but no violation indicated in AFS. A summary of the in-depth file review of these three facilities follows: <i>File 1:</i> The failed test in question was conducted prior to the MACT applicability date, and the facility successfully passed a stack test prior to applicability date. Therefore, this failed stack test was not an indication of non-compliance. <i>File 2:</i> The stack test result (for particulates) exceeded the emission limit in the permit, so the reviewer entered it as a failure into AFS. The state indicated that the original permit limit was derived from an AP42 emission factor, not a BACT or MACT limit. Therefore, the state re-permitted the source at a higher emission limit based on the stack test result. Since no underlying federal requirement was violated, ADEM elected not to pursue enforcement against the source. <i>File 3:</i> The source indicated that a failed stack test for particulates conducted on 7/25/07 on a power boiler resulted from plugged scrubber nozzles. A subsequent test conducted 7/27/07 passed. The state confirmed in a letter dated 10/18/07 that they agreed with the source that the initial results were “not representative.” This analysis identified the unique circumstances of each supplemental file reviewed, but it did not indicate a systematic problem or significant deviations from EPA policy. Instead,, ADEM’s result for metric 7c2 (42.9%) exceeds the national goal, and since this metric measures the extent to which stack test failures result in the source being coded in non-compliance, this indicates the state is generally following EPA policy. Therefore, no further action is needed.</p> |

| | | | |
|----------------------------------|--|----------------------|--------------|
| Metric(s) and Quantitative Value | <u>Data Metrics</u> | <u>National Goal</u> | <u>State</u> |
| | 7c1 - % facilities in noncompliance w/ FCE, stack test, or enforcement | >10.8% | 6.9% |
| | 7c2 - % facilities w/ failed stack test and Have noncompliance status | >22.4% | 42.9% |
| | <u>File Review Metrics</u> | | <u>State</u> |
| | 7a - % CMRs leading to accurate compliance determination | | 97% |
| | 7b - % non-HPVs w/ timely compliance determination in AFS | | 100% |
| State Response: | | | |
| Action(s): | No further action needed. | | |

| | | | |
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| CAA Element 8 - Identification of SNC and HPV | | | |
| Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner. | | | |
| Finding: | High Priority Violations (HPVs) are accurately identified in the state. Currently, based on a longstanding arrangement between EPA Region 4 and ADEM, EPA makes HPV determinations on behalf of the state. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | <p>All of the data metrics (8a through 8e) significantly exceed the national goal. In addition, EPA Region 4 and ADEM have a longstanding arrangement in which EPA has agreed to make HPV determinations on behalf of the state, so metric 8f was not evaluated during the file review. Therefore, since the data metrics exceed the national goal and the state does not make HPV determinations, no further action is needed. Timeliness of HPV entry is addressed under Element 3.</p> | | |
| Metric(s) and Quantitative Value | <u>Data Metrics</u> | <u>National Goal</u> | <u>State</u> |
| | 8a – HPV discovery rate – Majors sources | >3.8% | 10.1% |
| | 8b – HPV discovery rate – SM sources | >0.4% | 2.2% |
| | 8c – % formal actions with prior HPV – Majors (1 yr) | >37.1% | 88.9% |
| | 8d – % informal enforcement actions without prior HPV – Majors (1 yr) | <20.5% | 3.3% |
| | 8e - % sources with failed stack test Actions that received HPV listing – Majors and Synthetic Minors | >12.2% | 28.0% |
| | <u>File Review Metrics</u> | | <u>State</u> |
| | 8f - % accurate HPV determinations | | NA |

| | |
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| State Response: | |
| Action(s): | No additional action needed. |

| CAA Element 9 - Enforcement Actions Promote Return to Compliance | | | | | | | |
|--|--|---------------------|-------|---|----|---|-----|
| Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame. | | | | | | | |
| Finding: | Enforcement actions include corrective action when appropriate that have returned or will return facilities to compliance in a specific time frame, or facilities are brought back into compliance prior to issuance of a final enforcement order. | | | | | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | |
| Explanation: | <p>During the file review, 12 of 15 enforcement action files reviewed documented injunctive relief or complying actions. Most enforcement actions were penalty only actions, but the files documented that the facility had returned to compliance prior to issuance of the order. The state provided the following rationale for the three files which did not document a return to compliance: <i>File 1:</i> The state did not follow-up on the construction of dust hoods required in the Consent Order because the facility started downsizing and eventually shut down as a result of slow business. <i>File 2:</i> The facility was unable to comply with a synthetic minor operating permit (SMOP) VOC limitation, so the facility was issued a Title V Air Permit with a higher VOC limitation while the Order was being processed. <i>File 3:</i> Although the state issued a Consent Order citing the source's failure to submit documentation to demonstrate compliance with 40 CFR Part 63 Subpart RRR, the Consent Order did not include specific corrective action and a compliance schedule to bring the source back into compliance. However, an ongoing EPA enforcement action, which was under development when the state issued its Consent Order, is expected to return the source to compliance. The above three examples represent unique, non-systemic circumstances which do not indicate a problem with state enforcement actions.</p> | | | | | | |
| Metric(s) and Quantitative Value | <table border="1"> <thead> <tr> <th>File Review Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>9a – number of enforcement actions reviewed</td> <td>15</td> </tr> <tr> <td>9b - % enforcement actions returning source to compliance</td> <td>80%</td> </tr> </tbody> </table> | File Review Metrics | State | 9a – number of enforcement actions reviewed | 15 | 9b - % enforcement actions returning source to compliance | 80% |
| File Review Metrics | State | | | | | | |
| 9a – number of enforcement actions reviewed | 15 | | | | | | |
| 9b - % enforcement actions returning source to compliance | 80% | | | | | | |
| State Response: | | | | | | | |
| Action(s): | No additional action needed. | | | | | | |

| CAA Element 10 - Timely and Appropriate Action | | | |
|---|---|---------------|-------|
| Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media. | | | |
| Finding: | In general, the state takes timely and appropriate enforcement action in accordance with EPA policy to address HPVs. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | Based on the file review, 14 of the 16 HPVs reviewed (88%) were addressed within the 270 days allowed by the HPV policy. The cases that were not addressed in a timely manner were only slightly over the 270 day standard (273 and 280 days, respectively). In addition, 14 of the 16 HPVs (88%) were appropriately addressed with a formal enforcement response (administrative orders). In the 2 cases having an HPV identified with no formal enforcement response, the state sent a letter to the facility indicating the decision not to take further action since the violations related to the late submission of a report. This is not indicative of any problems, and in fact, ADEM is timely in addressing HPVs. | | |
| Metric(s) and Quantitative Value | Data Metrics | National Avg. | State |
| | 10a - % HPVs not timely (2 FY) | 39.5% | 7.9% |
| | File Review Metrics | | State |
| | 10b - % timely HPV enforcement actions | | 88% |
| | 10c - % HPVs appropriately addressed | | 88% |
| State Response: | | | |
| Action(s): | No additional action needed. | | |

| CAA Element 11 - Penalty Calculation Method | | | |
|--|--|--|--|
| Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. | | | |
| Finding | Alabama does not maintain penalty documentation in their enforcement files, and no other penalty calculations were provided to EPA upon request. Thus the adequacy of the gravity and economic benefit components of EPA’s penalty policy could not be examined. | | |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | Element 11 examines the state documentation of their penalty calculations. Specifically, the metric is determining if the state penalty includes a gravity portion of the penalty, and where appropriate, | | |

| | <p>economic benefit. In their enforcement orders, ADEM lists the "consideration" of the following six factors in the Alabama Code Section 22-22A-5(18): <i>"In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty."</i></p> <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. Therefore EPA cannot determine if the economic benefit and gravity portion of the penalties are assessed and recovered or that the BEN model, the model used for calculating economic benefit, is used appropriately. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement.</p> | | | | |
|---|---|--------------------|--------------|---|----|
| <p>Metric(s) and Quantitative Value:</p> | <table border="1"> <thead> <tr> <th data-bbox="469 892 1274 926"><u>File Metric</u></th> <th data-bbox="1274 892 1416 926"><u>State</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="469 926 1274 1033">11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy</td> <td data-bbox="1274 926 1416 1033">0%</td> </tr> </tbody> </table> | <u>File Metric</u> | <u>State</u> | 11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy | 0% |
| <u>File Metric</u> | <u>State</u> | | | | |
| 11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy | 0% | | | | |
| <p>State Response:</p> | <p>As a result of the SRF round 1, Alabama has formalized its penalty calculation process. Refinement of that process has been continuous and has resulted in a penalty calculation worksheet that is an integral part of all proposed and final administrative orders. The Alabama Environmental Management Act is very specific with respect to administrative penalty orders: [1] Six penalty factors are listed in the Act (seriousness of the violation, the economic benefit derived from delayed compliance, etc.) [2] The Act establishes a minimum penalty of \$100 per violation per day. This minimum penalty concept appears to be unique to Alabama. The six penalty factors can add to the penalty but cannot reduce the penalty below the \$100 per violation per day. [3] A 30-day public comment period is required by the Act with notice published in a newspaper of general circulation in the area of the alleged violation and on the department's web site. An opportunity for a hearing is required.</p> <p>The processes of the Act are defined as follows. Proposed orders detail the violations and provide an explanation of the penalty amount associated with the required penalty factors. All proposed orders, including the penalty calculation worksheet, are subject to a 30-day public comment period. All comments are reviewed and necessary adjustments are made to the order and/or penalty prior to finalization of the order. Alabama's web-based e-file system is available for citizens to view at any time the proposed order, the public notice, the comments</p> | | | | |

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| | <p>received and the final order. Since the full implementation of this process on October 1, 2009, little or no comments have been received as a result of the public comment period. Alabama is the only state in Region 4 which provides this 30-day comment period and full web access to the facility files containing proposed orders, penalty worksheets and final orders.</p> <p>This methodology provides full transparency with documentation of the violations and penalties. In FY08 (the SRF review year), Alabama issued 170 orders totaling \$2.6 million. Looking at media specific penalties, Alabama compared favorably with other states nationally. Alabama ranked 6th among the states in RCRA penalties, 11th in CWA and 20th in CAA in 2008. Alabama currently meets the requirements of the state penalty policy in Alabama Code Section 22-22A-5(18) and SRF elements 11 for CCA, CWA and RCRA. Alabama’s penalty calculation method is clear, transparent and logical with documented performance based results.</p> <p>The Department will continue to refine its penalty calculation process and submit a report within six months of the date of the final SRF report as requested in EPA’s recommended actions.</p> |
| Action(s): | <p>Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA.</p> |

| CAA Element 12 - Final Penalty Assessment and Collection | |
|--|---|
| Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected. | |
| Finding: | Alabama did not provide EPA with documentation of the rationale between their initial and assessed penalty. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. It is important that documentation of any differences and rationale between initial and final penalty calculations are maintained to determine if appropriate penalties have been recovered for the violations cited in the enforcement actions. For example, a downward adjustment of the penalty in the final enforcement action may take place due to new information provided in settlement negotiations, or a facility’s inability to pay a penalty. Without the final penalty calculation, it cannot be</p> |

| | <p>determined if economic benefit and a gravity portion of the penalty is recovered in the final enforcement order. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement</p> <p>All 15 files reviewed had documentation in the enforcement files indicating collection of the penalty. The state Legal Office handles penalty collections, and they notify the program via email when the penalty is paid.</p> | | | | | | | | | | | | | | | | | | | | | |
|--|--|--------------|---------------|-------|------------------------------|----|----|----------------------------------|-------|--|------|--|--|---------------------|--|-------|--|--|----|---|--|------|
| Metric(s) and Quantitative Value | <table border="1"> <thead> <tr> <th>Data Metrics</th> <th>National Goal</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>12a – Actions with penalties</td> <td>NA</td> <td>28</td> </tr> <tr> <td>12b - % HPV actions with penalty</td> <td>≥ 80%</td> <td></td> </tr> <tr> <td>100%</td> <td></td> <td></td> </tr> <tr> <th>File Review Metrics</th> <th></th> <th>State</th> </tr> <tr> <td>12c - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty</td> <td></td> <td>0%</td> </tr> <tr> <td>12d - % files that document collection of penalty</td> <td></td> <td>100%</td> </tr> </tbody> </table> | Data Metrics | National Goal | State | 12a – Actions with penalties | NA | 28 | 12b - % HPV actions with penalty | ≥ 80% | | 100% | | | File Review Metrics | | State | 12c - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | | 0% | 12d - % files that document collection of penalty | | 100% |
| Data Metrics | National Goal | State | | | | | | | | | | | | | | | | | | | | |
| 12a – Actions with penalties | NA | 28 | | | | | | | | | | | | | | | | | | | | |
| 12b - % HPV actions with penalty | ≥ 80% | | | | | | | | | | | | | | | | | | | | | |
| 100% | | | | | | | | | | | | | | | | | | | | | | |
| File Review Metrics | | State | | | | | | | | | | | | | | | | | | | | |
| 12c - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | | 0% | | | | | | | | | | | | | | | | | | | | |
| 12d - % files that document collection of penalty | | 100% | | | | | | | | | | | | | | | | | | | | |
| State Response: | <p>Alabama has incorporated a penalty calculation worksheet in all of the administrative penalty orders. This worksheet is a part of the proposed order sent to the violator which is subjected to a 30-day public comment period. The final order contains the worksheet as adjusted for any relevant comments. The difference in the penalty, if any, is documented. All of these documents are placed in the electronic facility file and are available to the public through Alabama’s web-based e-file system.</p> | | | | | | | | | | | | | | | | | | | | | |
| Action(s): | <p>Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA.</p> | | | | | | | | | | | | | | | | | | | | | |

CWA Program

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| CWA Element 1 – Data Completeness | |
| Degree to which the Minimum Data Requirements (MDRs) are complete. | |
| Finding: | Upon examination of the MDRs in PCS for Alabama, it was determined that the data was not complete. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |

| <p>Explanation:</p> | <p>CWA Element 1 evaluates the completeness of 44 data metrics. Three of the 44 metrics have national performance goals:</p> <p>Data Metric 1b1: % of NPDES major facilities with individual permits that have permit limits in PCS. The national performance goal for this metric is ≥ 95.</p> <p>Data Metric 1b2: % of outfalls for which DMR data is entered in the national database. The national performance goal for this metric is $\geq 95\%$.</p> <p>Data Metric 1b3: % of NPDES major facilities with individual permits that have DMR data in PCS. The national performance goal for this metric is $\geq 95\%$.</p> <p>For Data Metrics 1b2 and 1b3, the January 2009 ODS retrieval did not initially provide accurate results, in fact the values showed zero. However, in a subsequent data retrieval in August 2009, the values were:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>National Goal</u></th> <th style="text-align: center;"><u>State (Aug. 2009)</u></th> </tr> </thead> <tbody> <tr> <td>1b2 - DMR Entry Rate (Outfalls)</td> <td style="text-align: center;">95%</td> <td style="text-align: center;">91.6%</td> </tr> <tr> <td>1b3 - DMR Entry Rate (Facilities)</td> <td style="text-align: center;">95%</td> <td style="text-align: center;">97.9%</td> </tr> </tbody> </table> <p>Note at the time of this review, the ODS was unable to provide accurate results for data metric 1b1 and thus it was not used in this review.</p> <p>The State exceeds the national goal for the “Percent of NPDES majors with individual permits that have DMR data in PCS” (data metric 1b3) and should be commended and encouraged to maintain this level of effort. The State is below the national goal for the “Percent of outfalls for which DMR data is entered in the national database” (data metric 1b2) and should give further attention to ensuring the accuracy of the DMR data when such is electronically “transferred” from the state data base to PCS (now ICIS-NPDES). Specifically, ADEM should immediately correct data discrepancies appearing in the Audit Report. The Audit Report is electronically generated immediately after the data transfer and shows issues with data that ICIS-NPDES would not accept. This is an area for State Attention.</p> <p>For the remaining 41 data metrics in the ODS, ADEM noted 17 discrepancies between the data that ADEM reported into PCS and the data reported in the State system. Six of these discrepancies are considered minor as the differences in the reported numbers are 10% or less and can be attributed to the natural fluctuations in data, especially for universe numbers, and the timing of data retrievals. The remaining eleven discrepancies were significant and are described below:</p> | | <u>National Goal</u> | <u>State (Aug. 2009)</u> | 1b2 - DMR Entry Rate (Outfalls) | 95% | 91.6% | 1b3 - DMR Entry Rate (Facilities) | 95% | 97.9% |
|-----------------------------------|---|--------------------------|----------------------|--------------------------|---------------------------------|-----|-------|-----------------------------------|-----|-------|
| | <u>National Goal</u> | <u>State (Aug. 2009)</u> | | | | | | | | |
| 1b2 - DMR Entry Rate (Outfalls) | 95% | 91.6% | | | | | | | | |
| 1b3 - DMR Entry Rate (Facilities) | 95% | 97.9% | | | | | | | | |

| Metric | ODS (PCS) | State Response (Manual) | |
|--|---|-------------------------|--------------------------|
| 1e3: Informal actions: # of non-major facilities | 195 | 1,151 | |
| 1e4: Informal actions: # total non-major actions | 201 | 1,171 | |
| 1f3: Formal actions: # of non-major facilities | 17 | 77 | |
| 1f4: Formal actions: # of total non-major actions | 17 | 77 | |
| 1g1: Penalties: total number of penalties actions | 22 | 76 | |
| 1g2: Penalties: total penalties | \$227,800 | \$1,273,270 | |
| 1g3: Penalties: total collected (Three-year average of civil judicial actions) | \$0 | \$3,019,110 | |
| 1g4: Penalties: total collected (Three-year average of administrative actions) | \$1,138,440 | \$3,019,110 | |
| 5a: Inspection Coverage - Majors | 44.2% (84 majors) | 96% (189 majors) | |
| 5b1- Inspection Coverage - Non-major individual permits | 9.3% (131 non-majors) | 47% (489 non-majors) | |
| 5b2- Inspection Coverage – non-major general permits | 13 | 337 | |
| <p>Note that the above data metrics all relate to inspection and enforcement action data. This is relevant because inspection and enforcement data is housed in the states data system (NMS) and must be manually uploaded by the state into ICIS-NPDES (and PCS before the ICIS-NPDES conversion). Per the CWA Section 106 annual Workplan, ADEM is responsible for entering and maintaining data in ICIS-NPDES for all CWA MDRs. These CWA data discrepancies (and others noted elsewhere in this report) are significant and will require routine vigilance by ADEM on ensuring that the state data is accurately reflected in ICIS-NPDES. This is an area for state improvement.</p> | | | |
| Metric(s) and Quantitative Value | <u>Metric</u> | <u>National Goal</u> | <u>State (Aug. 2009)</u> |
| | 1b2 - DMR Entry Rate | 95% | 91.6% |
| | 1b3 - DMR with permit limits | 95% | 97.9% |
| State Response | <p>ADEM has instituted eDMR and node flow of DMR data from NMS into ICIS. The NPDES Internal SOP for Quality Information Reporting will be finalized and implemented by Jan 30, 2011. A copy of the final SOP will be submitted to EPA at that time. ADEM is scheduled for facility data and enforcement data flow into ICIS in 2011 and 2013; respectively. Also, ADEM's Environmental Data Systems program receives the ICIS Audit/Rejection Reports and resolves the issues or works with the NPDES program to resolve the issues causing the rejection.</p> | | |

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| Action(s): | <p>By January 30, 2011, ADEM should develop and submit to EPA for review a protocol that ensures:</p> <p>a) ICIS-NPDES reflects the same DMR data as in NMS.</p> <p>b) Manually entered inspection, enforcement, and penalty data in ICIS-NPDES reflects the same information that is housed in the state data system as well as what is located within the State Attorney General's office. Region 4 is available to assist ADEM in the development of the protocol.</p> <p>By March 1, 2011, ADEM should implement the protocol. Region 4's Clean Water Enforcement Branch will monitor the required level of data entry into ICIS-NPDES and the region will determine when implementation is completed.</p> |
|------------|--|

CWA Element 2 – Data Accuracy

Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).

Finding: In general, data reported into PCS is accurately entered and maintained.

Is this finding a(n) (select one):

- Meets SRF Program Requirements
- Area for State Attention
- Area for State Improvement – Recommendations Required
- Good Practice

Explanation:

Data Metric 2a reports the percent of enforcement actions linked to violations for major facilities. EPA has set a national goal of >=80%. Alabama's ODS indicates 87.5% of enforcement actions were linked to violations.

For file metric 2b, files were reviewed to further examine the accuracy of data between the information in the file and system data. Although there is no national goal established for this metric, data accuracy is vital because of the uses of the data between EPA and the public. For example, DMR reports that are missing in the data system can lead to erroneous noncompliance rates within a sector or community.

Of the 39 inspection/enforcement files randomly selected for this review, 31 files (80%) showed data being accurately reported. In the other eight files, one or more data discrepancies were noted but this is not considered a systemic problem. Examples of data discrepancies included data missing from PCS and data reported incorrectly in PCS. Missing data included inspection dates, engineering reports/progress reports, and DMRs. Misreported data included only inspection dates. Specifically, two files had both missing and misreported data, five files had only missing data, and one file had only misreported data.

In SRF Round 1, data accuracy in PCS was identified as a problem. Even though EPA does not consider the missing/misreported data points a

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| | systemic problem, ADEM should maintain vigilance on ensuring accuracy of their data. This is an area for state attention. | | |
| Metric(s) and Quantitative Value: | <u>Metric</u> | <u>National Goal</u> | <u>State</u> |
| | 2a - % of actions linked to violations for major facilities | 80 % | 87.5% |
| | 2b - % files reviewed where data is accurately reflected in the data system | - | 80% |
| State Response: | | | |
| Action(s): | No further is needed | | |

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| CWA Element 3 - Timeliness of Data Entry | |
| Degree to which the Minimum Data Requirements are timely. | |
| Finding | This element could not be evaluated since the data on the requirements of this metric were unavailable on the OECA SRF website at the time of the SRF review. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Not Applicable |
| Explanation: | Not applicable – data was not available for evaluation. |
| Metric(s) and Quantitative Value | Not applicable. |
| State Response | |
| Action(s): | Not applicable. |

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| CWA Element 4 - Completion of Commitments. | |
| Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed. | |
| Finding: | Alabama met most compliance and enforcement commitments in their FY2008 CWA §106 Grant Workplan. However, six grant commitments were not met. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | The compliance and enforcement aspects of ADEM’s FY 2008 CWA §106 Grant Workplan describes planned inspection requirements; data management requirements; reporting/enforcement requirements; pretreatment facilities requirements; and policy, strategy and management |

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| | <p>requirements for the fiscal year. ADEM's FY 2008 Grant Workplan contained 28 tasks/commitments with a number of subtask commitments for the above compliance and enforcement requirements (for details see attached ADEM's FY 2008 CWA §106 Grant Workplan). Twenty-two (78.5%) of the Grant Workplan tasks were met. Six (21%) of the Grant Workplan tasks were not met. This is an area for state improvement. The six grant workplan tasks not met are:</p> <ol style="list-style-type: none"> 1) ADEM did not maintain the required level of data entry in PCS for maintaining a DMR entry rate of at least 95%, as required by Task 15 (also see Element 1 of this report); 2) ADEM did not maintain the required level of data entry in PCS for entering inspection data for all NPDES program areas, including single event violations (SEVs), as required by Task 16a (also see Elements 5 and 7 of this report); 3) ADEM did not maintain the required level of data entry in PCS for entering and maintaining data for all formal and informal enforcement actions, including penalties assessed and collected, as required by Task 16b (also documented in the FY 2008 §106 Annual Report Checklist for ADEM); 4) ADEM did not maintain the required level of data entry in PCS for entering and maintaining NPDES compliance and enforcement data, as required by Task 17 (also documented in the FY 2008 §106 Annual Report Checklist for ADEM); 5) ADEM did not maintain the required level of data entry in PCS for entering completion of scheduled milestones, as required by Task 18 (also documented in the FY 2008 §106 Annual Report Checklist for ADEM) <p>[Note: The lack of reliable data as required by the tasks above creates numerous spill over effects such as 30 + facilities showing up on the EPA Watch List each quarter that do not actually have significant non-compliance (SNC) violations.]</p> <ol style="list-style-type: none"> 6) ADEM has not submitted their Enforcement Management System (EMS) to EPA, as required by Task 24 and the EPA/Alabama NPDES MOA. A copy of the EMS was viewed during the SRF on-site visit. However, the EMS has not been submitted to EPA as required by the Grant Workplan (also documented in the FY 2008 §106 Annual Report Checklist for ADEM). |
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| | alternative inspection plan requirements of the CMS. During the end-of-year grant workplan review, the region confirmed that ADEM met their FY 2008 inspection commitments, and, in fact, the commitments were substantially exceeded. This meets the SRF program requirement. | | |
| Metric(s) and Quantitative Value: | | Grant Workplan Requirement | Verified in End of Year Workplan Review |
| | 5a - Inspection Coverage - Majors | 50% (98 majors) | 96% (189 majors) |
| | 5b1- Inspection Coverage - Non-major individual permits | 20% (210 non-majors) | 47% (489 non-majors) |
| | 5b2- Inspection Coverage – non-major general permits | 288 | 337 |
| State Response: | | | |
| Action(s): | No further action is needed. | | |

| CWA Element 6 – Quality of Inspection or Compliance Evaluation Reports | |
|--|---|
| Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations. | |
| Finding: | ADEM’s inspection reports had the necessary documentation so proper compliance determinations could be drawn. The review, however, identified issues with the completeness and timeliness of the state’s inspection reports. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>ADEM is thorough in the documentation of inspection observations and findings so proper compliance determinations could be drawn. Nineteen inspection reports were reviewed under this element and 100% (19 of 19) had proper documentation to determine compliance from the inspection reports.</p> <p>This SRF element also evaluates the completeness of the inspection reports. Of the inspection reports reviewed, 94.7% (18 of 19) of the reports contained most of the critical information in the SRF inspection checklist, or the information was found in the permit and in other parts of the file. One deficiency observed in ADEM’s inspection reports was identified in one sub-category area: description of field activities. Deficiencies were noted in 84% (16 out of 19) inspection reports. Sufficient information in this sub-category could help clarify or further support field observations and findings.</p> |

| | <p>These report deficiencies did not impact the State’s ability to make a compliance determination. Nonetheless, the state should examine its practices for ensuring complete and consistent inspection reports. This is an area for state attention and ADEM should ensure that this information is included in future CWA inspection reports.</p> <p>As to the timeliness of completing inspection reports, ADEM has room for improvement. The SRF CWA File Review Plain Language Guide (PLG) states that the timeline for completing inspection reports should be the timeline in the state-specific EMS. ADEM has an inspection report completion timeline of 45 days. The results of comparing the 19 inspection reports reviewed to a 45 day timeframe showed:</p> <ul style="list-style-type: none"> • 13 of 19 inspection reports reviewed (66%) were completed within 45 days • 4 inspection reports were completed within 3 months • 1 inspection report was completed within 6 months • 1 inspection report did not indicate an inspection date <p>Upon seeing these findings, ADEM indicated that a number of reports that took longer than 45 days were likely impacted by sampling results. Timeliness for completing inspection reports is an area for state improvement.</p> | | | | | | | | | | |
|--|--|-------------|-------|----------------------------------|----|--|-------|--|------|---|-----|
| <p>Metric(s) and Quantitative Value:</p> | <table border="1"> <thead> <tr> <th data-bbox="423 1026 1328 1066">File Metric</th> <th data-bbox="1328 1026 1427 1066">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="423 1066 1328 1106">6a – inspection reports reviewed</td> <td data-bbox="1328 1066 1427 1106">19</td> </tr> <tr> <td data-bbox="423 1106 1328 1146">6b - % of inspection reports that were complete (18 of 19)</td> <td data-bbox="1328 1106 1427 1146">94.7%</td> </tr> <tr> <td data-bbox="423 1146 1328 1218">6c - % reports reviewed with sufficient documentation for an accurate compliance determination</td> <td data-bbox="1328 1146 1427 1218">100%</td> </tr> <tr> <td data-bbox="423 1218 1328 1251">6d - % inspection reports reviewed that were timely</td> <td data-bbox="1328 1218 1427 1251">66%</td> </tr> </tbody> </table> | File Metric | State | 6a – inspection reports reviewed | 19 | 6b - % of inspection reports that were complete (18 of 19) | 94.7% | 6c - % reports reviewed with sufficient documentation for an accurate compliance determination | 100% | 6d - % inspection reports reviewed that were timely | 66% |
| File Metric | State | | | | | | | | | | |
| 6a – inspection reports reviewed | 19 | | | | | | | | | | |
| 6b - % of inspection reports that were complete (18 of 19) | 94.7% | | | | | | | | | | |
| 6c - % reports reviewed with sufficient documentation for an accurate compliance determination | 100% | | | | | | | | | | |
| 6d - % inspection reports reviewed that were timely | 66% | | | | | | | | | | |
| <p>State Response:</p> | <p>In accordance with the FY2011 §106 Enforcement Workplan ADEM will submit the NPDES EMS within 120 days after October 1, 2010 (i.e. January 30, 2011).</p> | | | | | | | | | | |
| <p>Action(s):</p> | <p>Consistent with the ADEM FY2011 CWA §106 grant workplan, by January 30, 2011, the EMS should be revised to include inspection report timeframes and should be submitted to EPA for review. It is recommended that two inspection report timeframes be clearly incorporated and implemented through the CWA EMS: one for non-sampling inspections and another for sampling inspections that depend on laboratory results.</p> | | | | | | | | | | |

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| <p>CWA Element 7 – Identification of Alleged Violations.</p> | |
| <p>Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).</p> | |
| <p>Finding:</p> | <p>Alabama is not identifying or reporting single event violations (SEVs). Otherwise, Alabama accurately makes compliance determinations.</p> |

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| <p>Is this finding a(n) (select one):</p> | <p><input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice</p> |
| <p>Explanation:</p> | <p>SEVs are one-time or long-term violations discovered by the permitting authority typically during inspections (and not through automated reviews of Discharge Monitoring Reports). Data metrics 7a1 tracks SEVs for active majors and 7a2 tracks SEVs for non-majors (reported in PCS or ICIS-NPDES). Both metrics indicate that Alabama did not enter SEVs in FY 2008. An examination of FY 2009 data also shows no SEVs reported. The SEV reporting requirement is a commitment in the ADEM FY 2008 §106 Grant Workplan. The Workplan requires Alabama to “<i>Enter inspection data for all NPDES program areas. The basic information = permit number; facility name if not permitted; date of inspection and inspection type. All other information = single event violation, unpermitted discharge, etc.</i>”</p> <p>To verify if SEVs are being discovered but not reported, a review of eight files was performed. It showed three files with no compliance issues; one file with an unreported SEV; and four files where noncompliance issues were described, but violation descriptions did not clearly correspond to the SEV codes.</p> <p>In addition to the grant workplan SEV reporting requirement, it has been an EPA policy since 2006 for SEVs to be identified and reported (see May 22, 2006 OECA guidance entitled: <i>Final SEV Data Entry Guide for PCS</i>). The state needs to immediately emphasize the identification and data entry of SEVs. This is an area needing state improvement.</p> <p>Data metrics 7b and 7c report, respectively, the percent of facilities with unresolved compliance schedule violations at the end FY 2008, and the percent of facilities with unresolved permit schedule violations at the end of the FY 2008. With respect to metric 7b, ADEM’s data shows 73 of 80 permittees (91.2%) with violations of compliance schedule milestones scheduled to be met in FY 2008. This is greater than twice the national average so files were reviewed to see if compliance schedule violations were correctly coded in PCS and/or if the violation had been addressed but not updated in PCS. Seven files with unresolved compliance schedule violations were reviewed. In 6 of 7 files, documentation existed showing that the violation had been addressed but not updated in PCS. Because the cursory examination of a few files showed the problem to be data focused (reflection of findings in element 1) versus compliance schedule violations, this is an area for state attention. Data in PCS or ICIS-NPDES needs to reflect information in state files. With respect to metric 7c, the data metrics</p> |

| | <p>shows no permittees with permit schedule milestones due in FY2008. It is unknown if this is a data entry issue or an accurate reflection of data in PCS.</p> <p>Data Metric 7d reports the percent of major facilities with DMR violations in PCS. For ADEM, 106 of 190 major facilities (55%) have DMR violations. This reflects the national average. Files were examined to see if violations that appear on DMRs are recorded in PCS. There was one instance where a DMR violation was found in files and not reflected in PCS but this is not considered to be a systemic problem, and is not an area of concern.</p> <p>File review metric 7e is measuring the percent of inspection reports reviewed that led to accurate compliance determinations. As discussed in element 6, 19 inspection reports were reviewed. All inspection reports had proper documentation to determine compliance and compliance issues were accurately determined.</p> | | | | | | | | | | | | | | |
|---|--|---------------------|--------------|---|---|--|-----|--|-------|--|----|---|-------|---|------|
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>7a1 - # single event violations (SEVs) at active majors</td> <td>0</td> </tr> <tr> <td>7a2 - # single event violations (SEVs) at non-majors</td> <td>n/a</td> </tr> <tr> <td>7b - % facilities with unresolved compliance schedule violations</td> <td>91.2%</td> </tr> <tr> <td>7c - % facilities with unresolved permit schedule violations</td> <td>0%</td> </tr> <tr> <td>7d - Major facilities with DMR violations</td> <td>55.6%</td> </tr> <tr> <td>File metric 7e - % inspection reports reviewed that led to an accurate compliance determination</td> <td>100%</td> </tr> </tbody> </table> | <u>Data Metrics</u> | <u>State</u> | 7a1 - # single event violations (SEVs) at active majors | 0 | 7a2 - # single event violations (SEVs) at non-majors | n/a | 7b - % facilities with unresolved compliance schedule violations | 91.2% | 7c - % facilities with unresolved permit schedule violations | 0% | 7d - Major facilities with DMR violations | 55.6% | File metric 7e - % inspection reports reviewed that led to an accurate compliance determination | 100% |
| <u>Data Metrics</u> | <u>State</u> | | | | | | | | | | | | | | |
| 7a1 - # single event violations (SEVs) at active majors | 0 | | | | | | | | | | | | | | |
| 7a2 - # single event violations (SEVs) at non-majors | n/a | | | | | | | | | | | | | | |
| 7b - % facilities with unresolved compliance schedule violations | 91.2% | | | | | | | | | | | | | | |
| 7c - % facilities with unresolved permit schedule violations | 0% | | | | | | | | | | | | | | |
| 7d - Major facilities with DMR violations | 55.6% | | | | | | | | | | | | | | |
| File metric 7e - % inspection reports reviewed that led to an accurate compliance determination | 100% | | | | | | | | | | | | | | |
| State Response: | <p>ADEM is scheduled for facility data and enforcement data flow into ICIS in 2011 and 2013; respectively. ADEM will address this concern in accordance with the FY2011 §106 Workplan.</p> | | | | | | | | | | | | | | |
| Action(s): | <p>As required by EPA national guidance and the CWA grant workplan, ADEM should immediately begin identifying and reporting SEVs for NPDES Majors into ICIS-NPDES. EPA Region 4's Clean Water Enforcement Branch will monitor progress of this recommendation through the annual CWA §106 grant review process.</p> | | | | | | | | | | | | | | |

| CWA Element 8 – Identification of SNC and HPV | |
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| Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner. | |
| Finding | Alabama does not adequately identify and report SNCs into the national database. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | Element 8 looked at: (1) the accurate identification of SNCs and (2) the timely entry of SEVs that are SNCs into PCS. |

| | <p>(1) Accurate identification of SNCs: Data Metric 8a1, active major facilities in SNC during the reporting year, lists 92 facilities as SNC during FY 2008. To verify the accuracy of SNC data in PCS, five SNC facility files were evaluated during the SRF review process to see if the SNC designations were supported by the files. Of the five facility files reviewed: three facilities had DMR data found in files notwithstanding that PCS showed them as DMR non-receipt; one facility file had no indications of violations notwithstanding that PCS showed an E-NOV issued; and one facility file contained the facility’s progress report notwithstanding that PCS showed it as overdue. Thus a random selection of five SNC files did not support the SNC designation in PCS for any of the five facilities. These facilities should have been shown in PCS as in compliance. This is a continuing problem that was identified in Round 1 of the SRF, where a contributing factor was the division of data responsibilities across the Water Division and the Permits & Services Division. Accurate identification of SNCs is critical to the water enforcement program and this is an area for state improvement.</p> <p>For Data Metric 8a2, percent of active major facilities in SNC during the reporting year, the metric shows 48.4 % (92/190). The national average is 24.7%. Since ADEM's percentage is above the national average, the need to ensure an accurate identification of SNCs in the national database, as discussed above, is an area for state improvement.</p> <p>(2) Timely entry of SEVs that are SNCs into PCS: As discussed in element 7, ADEM is not reporting SEVs into any data system.</p> | | | | | | | | | | | | | | | |
|---|--|-------------|------------------|-------|--|-------|-------|-------------|--|-------|-------------------------|--|-----|-----------------------------|--|-----|
| <p>Metric(s) and Quantitative Value</p> | <table border="1"> <thead> <tr> <th data-bbox="440 1188 971 1213">Data Metric</th> <th data-bbox="987 1188 1214 1213">National Average</th> <th data-bbox="1321 1188 1393 1213">State</th> </tr> </thead> <tbody> <tr> <td data-bbox="440 1220 971 1245">8a2 - % active major facilities in SNC</td> <td data-bbox="1068 1220 1149 1245">22.4%</td> <td data-bbox="1321 1220 1393 1245">48.4%</td> </tr> <tr> <th data-bbox="440 1293 586 1318">File Metric</th> <td></td> <th data-bbox="1321 1293 1393 1318">State</th> </tr> <tr> <td data-bbox="440 1325 776 1350">8b - % SEV that are SNC</td> <td></td> <td data-bbox="1338 1325 1393 1350">N/A</td> </tr> <tr> <td data-bbox="440 1356 797 1381">8c - % SEVs that are timely</td> <td></td> <td data-bbox="1338 1356 1393 1381">N/A</td> </tr> </tbody> </table> | Data Metric | National Average | State | 8a2 - % active major facilities in SNC | 22.4% | 48.4% | File Metric | | State | 8b - % SEV that are SNC | | N/A | 8c - % SEVs that are timely | | N/A |
| Data Metric | National Average | State | | | | | | | | | | | | | | |
| 8a2 - % active major facilities in SNC | 22.4% | 48.4% | | | | | | | | | | | | | | |
| File Metric | | State | | | | | | | | | | | | | | |
| 8b - % SEV that are SNC | | N/A | | | | | | | | | | | | | | |
| 8c - % SEVs that are timely | | N/A | | | | | | | | | | | | | | |
| <p>State Response</p> | <p>ADEM has instituted eDMR and node flow of DMR data from NMS into ICIS. The NPDES Internal SOP for Quality Information Reporting will be finalized and implemented by January 30, 2011. A copy of the final SOP will be submitted to EPA at that time. ADEM is scheduled for facility data and enforcement data flow into ICIS in 2011 and 2013; respectively.</p> | | | | | | | | | | | | | | | |

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| Action(s): | By January 30, 2011, ADEM should develop and submit to EPA for review procedures to improve the quality of data entry so that ICIS-NPDES can accurately identify SNCs and prevent the identification of false SNCs. Within four months of the date of the transmittal of formal EPA comments to ADEM, ADEM should implement the procedures to improve the accurate identification of SNCs and to prevent false SNCs. EPA Region 4's Clean Water Enforcement Branch will monitor the implementation of these procedures through the Quarterly Watch List review process and the region will determine when implementation is complete. Region 4 is available to provide assistance to ADEM, as appropriate. |
|------------|--|

| CWA Element 9 - Enforcement Actions Promote Return to Compliance | |
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| Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame. | |
| Finding | All of the enforcement actions reviewed have returned or will return the facility to compliance. |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>Under file review metric 9a, EPA reviewed a total of 20 files with enforcement actions. The types of enforcement actions included in this review are: 9 Administrative Penalty Orders, 1 Unilateral Order, 6 Notices of Violation, and 4 Warning Letters.</p> <p>Metric 9b is the percentage of the SNC enforcement responses reviewed that returned or will return the facility to compliance. Five SNC files were reviewed from 2008, and all of them had documentation in the files showing the source returned or will return to compliance. This metric shows 100% of SNC cases have enforcement responses that required a return to compliance.</p> <p>Metric 9c is the percentage of non-SNC enforcement responses reviewed that returned or will return the facility to compliance. Fifteen out of 15 (100%) of the 2008 enforcement actions reviewed had documentation in the file showing that the source returned or will return to compliance.</p> <p>During SRF Round 1, there was a concern with the degree to which Alabama's enforcement actions include required complying or corrective action that will return facilities to compliance in a specific time frame. Based on this round 2 review, this is not a continuing concern.</p> |

| Metric(s) and Quantitative Value | File Metric | Results |
|----------------------------------|---|---------|
| | Metric 9a – # of Enforcement Actions Reviewed | 20 |
| | Metric 9b - % of Enforcement Responses that have or will return SNC to compliance (5/5) | 100% |
| | Metric 9c - % of Enforcement Responses that have or will return non-SNC to compliance (15/15) | 100% |
| State Response | | |
| Action(s): | No further action is needed | |

| CWA Element 10 - Timely and Appropriate Action | |
|---|--|
| Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media. | |
| Finding: | Alabama does not take timely enforcement action for their SNCs in accordance with CWA policy. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>Data Metric 10a, major facilities without timely action, shows 36.3% (69 of 190) SNCs with untimely enforcement action. The 1989 EMS and the May 29, 2008, memo <i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance</i> defines timely and appropriate enforcement response for SNCs. These documents state that timely action is where a formal enforcement action is taken within 60 days of the SNC violation appearing on a 2nd quarterly non-compliance report (QNCR).</p> <p>A file review was conducted to assess the accuracy of data metric 10a. Six SNC enforcement files were selected for review. In all cases, formal enforcement action was taken, but 66% (4 of 6) of the actions were not timely (e.g., action was not taken within 60 days of appearing on the 2nd QNCR). The file review supports the findings from the data metric. ADEM should ensure that their SNCs are addressed according to the CWA Timely and Appropriate guidance and this is an area for state improvement.</p> <p>File Review Metric 10e is examining timeliness of enforcement for non SNCs. There is no EPA guidance on timelines for enforcement for non SNCs but there are expectations that states have established timeframes for such actions. ADEM has established timely goals for non-SNC. Unfortunately, the files selected did not contain non-SNCs, so this file metric could not be analyzed.</p> |

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| Metric(s) and Quantitative Value: | Data Metric | National goal | State |
| | 10a - Major facilities without timely action | <2% | 36.3% |
| | File Metric | | State |
| | 10b - % untimely SNC enforcement responses | | 67% (4 of 6) |
| | 10c - % of enforcement responses that appropriately address SNC violations | | 100 % |
| | 10d - % of enforcement responses that appropriately address non-SNC violations | | 100% |
| | 10e - % timely non-SNC enforcement responses | | N/A |
| State Response: | In accordance with the FY2011 §106 Enforcement Workplan ADEM will submit the NPDES EMS within 120 days after October 1, 2010 (i.e. January 30, 2011). | | |
| Action(s): | ADEM should implement procedures to ensure that timely enforcement is taken in accordance with CWA policy. EPA Region 4 Clean Water Enforcement Branch will evaluate progress through the quarterly CWA Watch List review process. | | |

| CWA Element 11 - Penalty Calculation Method | |
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| Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. | |
| Finding | Alabama does not maintain penalty documentation in their enforcement files, and no other penalty calculations were provided to EPA upon request. Thus the adequacy of the gravity and economic benefit components of EPA's penalty policy could not be examined. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>Element 11 examines the state documentation of their penalty calculations. Specifically, the metric is determining if the state penalty includes a gravity portion of the penalty, and where appropriate, economic benefit. In their enforcement orders, ADEM lists the "consideration" of the following six factors in the Alabama Code Section 22-22A-5(18): <i>"In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty."</i></p> <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. Therefore EPA</p> |

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| | cannot determine if the economic benefit and gravity portion of the penalties are assessed and recovered or that the BEN model, the model used for calculating economic benefit, is used appropriately. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement. | | | | |
| Metric(s) and Quantitative Value: | <table border="0" style="width: 100%;"> <tr> <td style="width: 60%;"><u>File Metric</u></td> <td style="width: 40%; text-align: right;"><u>State</u></td> </tr> <tr> <td>11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit, consistent with national policy</td> <td style="text-align: right;">0%</td> </tr> </table> | <u>File Metric</u> | <u>State</u> | 11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit, consistent with national policy | 0% |
| <u>File Metric</u> | <u>State</u> | | | | |
| 11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit, consistent with national policy | 0% | | | | |
| State Response: | <p>As a result of the SRF round 1, Alabama has formalized its penalty calculation process. Refinement of that process has been continuous and has resulted in a penalty calculation worksheet that is an integral part of all proposed and final administrative orders. The Alabama Environmental Management Act is very specific with respect to administrative penalty orders: [1] Six penalty factors are listed in the Act (seriousness of the violation, the economic benefit derived from delayed compliance, etc.) [2] The Act establishes a minimum penalty of \$100 per violation per day. This minimum penalty concept appears to be unique to Alabama. The six penalty factors can add to the penalty but cannot reduce the penalty below the \$100 per violation per day. [3] A 30-day public comment period is required by the Act with notice published in a newspaper of general circulation in the area of the alleged violation and on the department’s web site. An opportunity for a hearing is required.</p> <p>The processes of the Act are defined as follows. Proposed orders detail the violations and provide an explanation of the penalty amount associated with the required penalty factors. All proposed orders, including the penalty calculation worksheet, are subject to a 30-day public comment period. All comments are reviewed and necessary adjustments are made to the order and/or penalty prior to finalization of the order. Alabama’s web-based e-file system is available for citizens to view at any time the proposed order, the public notice, the comments received and the final order. Since the full implementation of this process on October 1, 2009, little or no comments have been received as a result of the public comment period. Alabama is the only state in Region 4 which provides this 30-day comment period and full web access to the facility files containing proposed orders, penalty worksheets and final orders.</p> <p>This methodology provides full transparency with documentation of the violations and penalties. In FY08 (the SRF review year), Alabama issued 170 orders totaling \$2.6 million. Looking at media specific penalties, Alabama compared favorably with other states nationally. Alabama ranked 6th among the states in RCRA penalties, 11th in CWA and 20th in CAA in 2008. Alabama currently meets the requirements of the state penalty policy in Alabama Code Section 22-22A-5(18) and SRF elements 11 for CCA, CWA and RCRA. Alabama’s penalty calculation method is clear, transparent and logical with documented performance based results.</p> | | | | |

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| | The Department will continue to refine its penalty calculation process and submit a report within six months of the date of the final SRF report as requested in EPA’s recommended actions. |
| Action(s): | Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA. |

CWA Element 12 - Final Penalty Assessment and Collection

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

| Finding | Alabama did not provide EPA with documentation of the rationale between their initial and assessed penalty. | | | | | | |
|--|---|-------------|-------|--|----|--|-------|
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | |
| Explanation: | <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. It is important that documentation of any differences and rationale between initial and final penalty calculations are maintained to determine if appropriate penalties have been recovered for the violations cited in the enforcement actions. For example, a downward adjustment of the penalty in the final enforcement action may take place due to new information provided in settlement negotiations, or a facility’s inability to pay a penalty. Without the final penalty calculation, it cannot be determined if economic benefit and a gravity portion of the penalty is recovered in the final enforcement order. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement.</p> <p>For Metric 12b, 100% of the nine enforcement actions with penalties documented collection of penalty. Copies of the checks were found in the enforcement files.</p> | | | | | | |
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th>File Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty</td> <td>0%</td> </tr> <tr> <td>12b - % of final enforcement actions that document collection of final penalty</td> <td>100 %</td> </tr> </tbody> </table> | File Metric | State | 12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | 0% | 12b - % of final enforcement actions that document collection of final penalty | 100 % |
| File Metric | State | | | | | | |
| 12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | 0% | | | | | | |
| 12b - % of final enforcement actions that document collection of final penalty | 100 % | | | | | | |

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| State Response: | Alabama has incorporated a penalty calculation worksheet in all of the administrative penalty orders. This worksheet is a part of the proposed order sent to the violator which is subjected to a 30-day public comment period. The final order contains the worksheet as adjusted for any relevant comments. The difference in the penalty, if any, is documented. All of these documents are placed in the electronic facility file and are available to the public through Alabama's web-based e-file system. |
| Action(s): | Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA. |

RCRA Program:

| RCRA Element 1 – Data Completeness | | | | | | | | | | | | | | | | | | | |
|---|---|--------------|-------|--|----|------------------------------------|-----|------------------------------------|-------|---|-----|------------------------|-----|----------------------------------|-----|---|-----|---|----|
| Degree to which the Minimum Data Requirements (MDRs) are complete. | | | | | | | | | | | | | | | | | | | |
| Finding | Alabama has entered the Minimum Data Requirements into RCRAInfo for regulated universes, compliance monitoring and enforcement information. | | | | | | | | | | | | | | | | | | |
| This finding (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | | | | | | | | | | | |
| Explanation: | Element 1 is supported by SRF Data Metrics 1a through 1g, and measures the completeness of the data in RCRAInfo. EPA provided the original SRF data metrics to the state for comment on January 13, 2009. In their response, Alabama highlighted some data differences in the RCRA universes for LQGs and SQGs when compared with their FY2008 grant work plan. The FY2008 grant work plan was likely prepared a year or more before the SRF data was pulled in January 2009. This time lag and the natural fluctuations in universe numbers explain the discrepancies between SRF data and ADEM's response. Since no data inaccuracies of significance were noted, the RCRAInfo data is considered complete. | | | | | | | | | | | | | | | | | | |
| Metric(s) and Quantitative Value | <table border="1"> <thead> <tr> <th>Data Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>1a1 - # of operating TSDFs in RCRAInfo</td> <td>11</td> </tr> <tr> <td>1a2 - # of active LQGs in RCRAInfo</td> <td>292</td> </tr> <tr> <td>1a3 - # of active SQGs in RCRAInfo</td> <td>1,096</td> </tr> <tr> <td>1a5 - # of LQGs per latest official biennial report</td> <td>237</td> </tr> <tr> <td>1b1 - # of inspections</td> <td>328</td> </tr> <tr> <td>1c1 - # of sites with violations</td> <td>183</td> </tr> <tr> <td>1d2 - Informal Actions: number of actions</td> <td>171</td> </tr> <tr> <td>1e1 - SNC: number of sites with new SNC</td> <td>14</td> </tr> </tbody> </table> | Data Metrics | State | 1a1 - # of operating TSDFs in RCRAInfo | 11 | 1a2 - # of active LQGs in RCRAInfo | 292 | 1a3 - # of active SQGs in RCRAInfo | 1,096 | 1a5 - # of LQGs per latest official biennial report | 237 | 1b1 - # of inspections | 328 | 1c1 - # of sites with violations | 183 | 1d2 - Informal Actions: number of actions | 171 | 1e1 - SNC: number of sites with new SNC | 14 |
| Data Metrics | State | | | | | | | | | | | | | | | | | | |
| 1a1 - # of operating TSDFs in RCRAInfo | 11 | | | | | | | | | | | | | | | | | | |
| 1a2 - # of active LQGs in RCRAInfo | 292 | | | | | | | | | | | | | | | | | | |
| 1a3 - # of active SQGs in RCRAInfo | 1,096 | | | | | | | | | | | | | | | | | | |
| 1a5 - # of LQGs per latest official biennial report | 237 | | | | | | | | | | | | | | | | | | |
| 1b1 - # of inspections | 328 | | | | | | | | | | | | | | | | | | |
| 1c1 - # of sites with violations | 183 | | | | | | | | | | | | | | | | | | |
| 1d2 - Informal Actions: number of actions | 171 | | | | | | | | | | | | | | | | | | |
| 1e1 - SNC: number of sites with new SNC | 14 | | | | | | | | | | | | | | | | | | |

| | | |
|-----------------------|--|------------------|
| | 1f2 - Formal action: number taken 1g - Total amount of assessed penalties | 18 \$ 771,524 |
| State Response | | |
| Action(s): | No further action needed. | |

RCRA Element 2 – Data Accuracy

Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).

| | |
|-----------------------------------|---|
| Finding: | During the SRF evaluation, data accuracy issues were identified related to unresolved violations and missing data elements in RCRAInfo. |
| This finding (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>SRF Element 2 is supported by SRF Data Metrics 2a, 2b, and SRF File Review Metric 2c and measures the accuracy of data in RCRAInfo.</p> <p>Data metrics 2a1 and 2a2 measure the closeness of the SNC determination to date of the formal action. This is a potential indicator of enforcement cases where the SNC entry was withheld until the enforcement action was taken. Alabama had 18 formal actions in FY2008, and only one SNC was determined within one week of the formal action. Delayed SNC entry into RCRAInfo is not a concern.</p> <p>Metric 2b measures the longstanding RCRA secondary violators (SVs), which are non-SNC facilities. According to the RCRA Enforcement Response Policy (ERP), all SVs should be returned to compliance within 240 days, or elevated to SNC status and addressed through formal enforcement. In the initial SRF data metrics pull, Alabama had 13 SVs in violation for greater than 240 days. Following a more recent data pull, RCRAInfo verifies that all 13 facilities have been returned to compliance and/or redesignated to SNC status. New unaddressed SVs are not showing up in OTIS as of May 2010, so this is not a continuing problem.</p> <p>File review metric 2c measures the percentage of files where corresponding data was missing in RCRAInfo. If any of the relevant information in inspection reports, enforcement actions, or civil and administrative enforcement responses is missing in RCRAInfo, the data for that file is considered inaccurate. A total 24 files were reviewed. Seventeen of the 24 files had accurate data reported in RCRAInfo, and the other seven (29%) had missing elements either in the file or RCRAInfo. Six of the seven files had warning letters or notices of violation with dates that did not match the dates in RCRAInfo. In addition, one file had two violations that could not be</p> |

| | linked to information in RCRAInfo. This is essentially eight data points that are inaccurate, and does not constitute a serious pattern of missing information. However, this is still an area for state attention and Alabama should ensure accuracy between their files and information in RCRAInfo. | | | | | | | | | | | | |
|---|--|---------------------|--------------|--|---|---|---|--|----|---------------------------|--|--|-----|
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th><u>State</u></th> </tr> </thead> <tbody> <tr> <td>2a1 - # of sites in SNC-determined on day of formal action</td> <td>0</td> </tr> <tr> <td>2a2 - # of sites in SNC-determined within one week of formal action</td> <td>1</td> </tr> <tr> <td>2b - # of sites in violation for >240 days</td> <td>13</td> </tr> <tr> <td colspan="2"><u>File Review Metric</u></td> </tr> <tr> <td>2c - % of files with missing data elements</td> <td>29%</td> </tr> </tbody> </table> | <u>Data Metrics</u> | <u>State</u> | 2a1 - # of sites in SNC-determined on day of formal action | 0 | 2a2 - # of sites in SNC-determined within one week of formal action | 1 | 2b - # of sites in violation for >240 days | 13 | <u>File Review Metric</u> | | 2c - % of files with missing data elements | 29% |
| <u>Data Metrics</u> | <u>State</u> | | | | | | | | | | | | |
| 2a1 - # of sites in SNC-determined on day of formal action | 0 | | | | | | | | | | | | |
| 2a2 - # of sites in SNC-determined within one week of formal action | 1 | | | | | | | | | | | | |
| 2b - # of sites in violation for >240 days | 13 | | | | | | | | | | | | |
| <u>File Review Metric</u> | | | | | | | | | | | | | |
| 2c - % of files with missing data elements | 29% | | | | | | | | | | | | |
| State Response: | <p>File Review Metric 2c is not reported correctly. SRF RCRA File Review Metrics dated September 26, 2008 states that the metric is “% of files reviewed where mandatory data are accurately reflected in the national data system.” The Metric should reflect 71% of files accurately reflected.</p> <p>File Review Metric 2c is reported in a manner that magnifies any data error. Files would be expected to routinely have 20-50 significant data entries (codes and dates) per year. If one of them is inaccurate, the metric reports as though all data entries in the file are inaccurate. This can lead to the conclusion that a more serious problem exists. For example, if two files are examined and one data entry is detected in one file, the metric would report an accuracy rate of 50%. In actuality the accuracy rate is at least 97%.</p> <p>File Review Metric 2c does not specify an acceptable level of accuracy. The eight inaccurate data entries would equate to an estimated accuracy rate of over 98% for all data entries. Alabama would contend that 98% is an acceptable accuracy level.</p> | | | | | | | | | | | | |
| Action(s): | No further action is needed. | | | | | | | | | | | | |

| RCRA Element 3 - Timeliness of Data Entry | |
|--|---|
| Degree to which the Minimum Data Requirements are timely. | |
| Finding | All SNCs were entered into RCRAInfo within the 150 day ERP timeframe. |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | RCRA Element 3 measures the percentage of SNCs entered into RCRAInfo after 60 days from the first day of the inspection. Data metric 3a is calculated by comparing archived monthly RCRAInfo SNC pulls and determining if a two month lag-time or longer exists between the day of inspection and when the SNC appeared in RCRAInfo. It is used as an indicator of late data entry. According to the RCRA ERP, SNCs should be entered into RCRAInfo upon determination, and not withheld to enter at a later time. While 20% of the |

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|---|---|--------------------|--------------|---|-----|
| | <p>SNCs did not meet the 60 days reflected in this metric, all were entered within the 150 day ERP timeframe.</p> <p>In FY2008, two of ten SNCs were entered into RCRAInfo after 60 days. Specifically, these were entered 61 days and 150 days from the first day of inspection. Given that neither SNC was entered after 150 days, the ERP timeline for SNC entry, there is no SNC timeliness issue that warrants attention. This was identified as a minor issue in Round 1 of the SRF, and is not a continuing concern in Round 2.</p> | | | | |
| Metric(s) and Quantitative Value: | <table border="0"> <tr> <td><u>Data Metric</u></td> <td><u>State</u></td> </tr> <tr> <td>3a % of SNCs that were entered > or = 60 days</td> <td>20%</td> </tr> </table> | <u>Data Metric</u> | <u>State</u> | 3a % of SNCs that were entered > or = 60 days | 20% |
| <u>Data Metric</u> | <u>State</u> | | | | |
| 3a % of SNCs that were entered > or = 60 days | 20% | | | | |
| State Response: | <p>It is not logical for the SRF to compare the entry of SNCs into RCRAInfo to a 60-day timeframe when the ERP has a 150-day timeframe. Furthermore, the report states that even though some of the SNCs were entered after day 60, it is not a concern since they were entered before day 150.</p> <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> | | | | |
| Action(s): | No further action is needed. | | | | |

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| RCRA Element 4 - Completion of Commitments. | |
| Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed. | |
| Finding | Alabama met or exceeded the majority of the enforcement and inspection commitments and projections from their FY 2008 RCRA grant work plan. |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>In the Alabama RCRA grant work plan for FY2008, the state included specific commitments and projections under Program Element II - Compliance Monitoring and Enforcement. These include commitments and projections for Inspections, Enforcement Activity and Record Reviews. For purposes of the SRF, EPA evaluated the 14 compliance monitoring commitments in the "Inspection" section of the grant workplan. Of the 14 commitments, 12 (86%) were met or exceeded. The 2 commitments not met were:</p> <ul style="list-style-type: none"> • TSDF Inspections at All other Land Disposal Facilities subject to Subpart |

| | | | | | | | |
|---|---|----------------------------|--------------|------------------------------------|---|---|-------------|
| | <p>F (commitment - 19; accomplished - 18)</p> <ul style="list-style-type: none"> • TSDF Inspections at All other Treatment/Storage Facilities (commitment -6; accomplished - 5) <p>The one missed land disposal TSDF inspection was deferred at EPA's request due to the facility being under investigation by EPA. The inspection was completed by the state in March 2009. The missed TSD inspection was completed in December 2008. Both these inspections were verified in RCRAInfo.</p> <p>Notwithstanding the 2 missed inspections out of 139 inspections committed to, there is no indication that missed grant commitments is a systemic issue thus this element meets the SRF Program Requirements.</p> | | | | | | |
| Metric(s) and Quantitative Value: | <table border="0"> <tr> <td><u>File Review Metrics</u></td> <td style="text-align: right;"><u>State</u></td> </tr> <tr> <td>4a – Planned inspections completed</td> <td style="text-align: right;">233% (69/31) SQGs 122 % (73/60) LQGs 97% (36/37) LDFs 91% (10/11) TSDs</td> </tr> <tr> <td>4b – Planned commitments completed (See appendices for excerpt from the ADEM RCRA FY2008 End of Year report)</td> <td style="text-align: right;">86% (12/14)</td> </tr> </table> | <u>File Review Metrics</u> | <u>State</u> | 4a – Planned inspections completed | 233% (69/31) SQGs 122 % (73/60) LQGs 97% (36/37) LDFs 91% (10/11) TSDs | 4b – Planned commitments completed (See appendices for excerpt from the ADEM RCRA FY2008 End of Year report) | 86% (12/14) |
| <u>File Review Metrics</u> | <u>State</u> | | | | | | |
| 4a – Planned inspections completed | 233% (69/31) SQGs 122 % (73/60) LQGs 97% (36/37) LDFs 91% (10/11) TSDs | | | | | | |
| 4b – Planned commitments completed (See appendices for excerpt from the ADEM RCRA FY2008 End of Year report) | 86% (12/14) | | | | | | |
| State Response: | | | | | | | |
| Action(s): | No further action is needed. | | | | | | |

RCRA Element 5 – Inspection Coverage

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

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| Finding | Alabama completed core inspection coverage for LQGs (one year coverage). Alabama did not meet the inspection coverage requirements for RCRA TSDs (two-year coverage) and LQGs (five-year coverage). |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>Element 5 is supported by data metrics 5a, 5b, and 5c. The OECA National Program Managers (NPM) Guidance provides the core program inspection coverage for TSDs and LQGs.</p> <p>According to the RCRA statute and the OECA NPM guidance, all operating TSDs must be inspected once every two years. Data metric 5a shows that Alabama inspected 91% of the TSDs (10 of 11) over the two-year timeframe from FY2007-2008, and therefore the state did not meet this requirement. During the SRF, Alabama indicated that staff turnover was the basis for the</p> |

| | <p>one missed TSD inspection in FY2007-2008, and the facility was inspected in the first quarter of FY2009. RCRAInfo verifies that this inspection was completed in December 2008. Typically, Alabama completes full inspection coverage at their TSDs every two years, so this one-time omission is not an area of concern.</p> <p>The OECA NPM Guidance provides that 20% of LQGs should be inspected annually, and that 100% of the LQGs should be inspected over a five-year period using the RCRA Biennial Reporting System (BRS). Data metric 5b indicates that Alabama inspected 21% (50 of 237) of their LQGs in FY2008, thus meeting the one-year inspection requirement. For the five-year LQG inspection coverage, data metric 5c indicates that 85% (201/237) of the LQG universe was inspected from FY2004-2008. This percentage falls short of the 100% goal. There were approximately 14 facilities that were not LQGs for the entire five-year period (as recorded in the BRS). If the facilities are removed from the metric calculation, the inspection coverage increases to 90% (201 of 223).</p> <p>Although the Alabama SRF Round 1 report made recommendations under this element, the actions were related to maintaining accurate inspection universes in RCRAInfo. In Round 1, the state actually met the inspection requirements for TSDs and LQGs, but due to inaccurate TSD information – it appeared as if the requirement was missed. The findings in Round 2 indicate that two areas of inspection coverage were not met, but Alabama was very close in fulfilling the inspection requirements. This is an area of state attention, and can be addressed through the annual RCRA grant workplan development and monitoring.</p> | | | | | | | | | | | | |
|---|---|--|------------|-------|--|------|----------------|---------------------------------------|-----|-----|--|------|--|
| <p>Metric(s) and Quantitative Value</p> | <table border="1"> <thead> <tr> <th>Data Metrics</th> <th>Nat'l Goal</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>5a - TSD inspection coverage (2 years)</td> <td>100%</td> <td>91% (10 of 11)</td> </tr> <tr> <td>5b - LQG inspection coverage (1 year)</td> <td>20%</td> <td>21%</td> </tr> <tr> <td>5c - LQG inspection coverage (5 years)</td> <td>100%</td> <td>85% (201 of 237) revised 90% (201 of 223)</td> </tr> </tbody> </table> | Data Metrics | Nat'l Goal | State | 5a - TSD inspection coverage (2 years) | 100% | 91% (10 of 11) | 5b - LQG inspection coverage (1 year) | 20% | 21% | 5c - LQG inspection coverage (5 years) | 100% | 85% (201 of 237) revised 90% (201 of 223) |
| Data Metrics | Nat'l Goal | State | | | | | | | | | | | |
| 5a - TSD inspection coverage (2 years) | 100% | 91% (10 of 11) | | | | | | | | | | | |
| 5b - LQG inspection coverage (1 year) | 20% | 21% | | | | | | | | | | | |
| 5c - LQG inspection coverage (5 years) | 100% | 85% (201 of 237) revised 90% (201 of 223) | | | | | | | | | | | |
| <p>State Response</p> | <p>Each year in its RCRA grant workplan Alabama specifies by name all LQGs in the universe at the time the grant is submitted. Alabama also specifies by name at least 20% of the LQG universe listed in the grant workplan as facilities that Alabama commits to inspect as part of the grant commitment. LQGs that have never been inspected and LQGs that have not been inspected in 5 years are given priority when compiling the list of facilities to inspect. Each year EPA Region 4 reviews and approves the grant workplan. At the end of each year, Alabama submits a report to EPA region 4 listing all the LQG inspections conducted during the grant period including any LQGs inspected in lieu of any listed in the grant workplan. Each year EPA Region 4 reviews Alabama's report and independently confirms its accuracy during a yearly review. In each of the five years covered by Metric 5c, Alabama met or exceeded the 20% LQG grant inspection commitment.</p> | | | | | | | | | | | | |

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| | <p>Alabama believes the system described above best addresses the goals of inspecting 20% of the LQGs each year and 100% of them over a five year period. When looking at the past five years, fluctuations over time of the facilities in the LQG universe cause errors both in estimating the number of LQGs in the universe over the entire time and errors estimating the number of facilities that were LQGs at the time they were inspected. For example, if during the five year period 10% of the LQGs left the universe and were replaced by an equal number of facilities joining the universe, a state could inspect a number of LQGs (at the time of the inspection) equal to 100% of the number in the universe, but only get credit for 90% under the metric.</p> <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> |
| Action(s): | No further action is needed. |

RCRA Element 6 – Quality of Inspection or Compliance Evaluation

Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

| | |
|------------------------------------|--|
| Finding | The Alabama RCRA inspection reports were generally found complete and provided documentation to appropriately determine compliance, but there is a minor problem continuing from Round 1 on inspection documentation. The state is timely in the completion of the majority of their inspection reports. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>Element 6 is supported by SRF file review metrics 6a, 6b, and 6c. There were 21 inspection reports reviewed during the on-site file review.</p> <p>File review metric 6b assesses the completeness of inspection reports and whether they provide sufficient documentation to determine compliance at the facility. Of the inspection reports reviewed, 91% (19 of 21) were considered complete. For the 2 inspection reports found incomplete, the following information was missing:</p> <ul style="list-style-type: none"> • a sufficient introduction describing the purpose of the inspection; • a description of how the facility was regulated under RCRA; • a description of the onsite hazardous waste management activities. |

| | <p>The EPA Revised RCRA Inspection Manual (1998) provides key information that must be in a report including a description of the “facility inspected, its operations, and the findings of the inspection.” In the SRF Round 1 report, this same issue was identified where 20% of the inspection reports were found to be inconsistent and lacking in detail. This is still identified as an area of state attention in SRF Round 2, and Alabama should utilize the RCRA Inspection Manual as a model to ensure that key information is included in future inspection reports.</p> <p>File review metric 6c measures the timeliness of completing inspection reports. Absent a state-defined deadline for the completion of inspection reports, the EPA Region 4 guideline of 45 days was used in the file review metric, and 91% (19 of 21) of the inspection reports were completed in this timeframe. Since only two inspection reports were late, this does not indicate a systemic problem, thus no state action is needed.</p> | | | | | | | | |
|---|---|---------------------|-------|---------------------------------------|----|--|-----|---|-----|
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th>File Review Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>6a - # of inspection reports reviewed</td> <td>21</td> </tr> <tr> <td>6b - % of inspection reports that are complete</td> <td>91%</td> </tr> <tr> <td>6c - % of inspection reports completed within 45 days</td> <td>91%</td> </tr> </tbody> </table> | File Review Metrics | State | 6a - # of inspection reports reviewed | 21 | 6b - % of inspection reports that are complete | 91% | 6c - % of inspection reports completed within 45 days | 91% |
| File Review Metrics | State | | | | | | | | |
| 6a - # of inspection reports reviewed | 21 | | | | | | | | |
| 6b - % of inspection reports that are complete | 91% | | | | | | | | |
| 6c - % of inspection reports completed within 45 days | 91% | | | | | | | | |
| State Response: | <p>On February 25, 2010, after a series of preliminary e-mail and data exchanges, a conference call was held with EPA Region 4 POC for Metric 6b and the ADEM Land Division Chief and select members of his staff. During this meeting agreement was reached that all files reviewed under Metric 6b were considered complete by EPA. Since that time, Alabama has not been notified of any change in that agreement or allowed an opportunity to address any change.</p> <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> | | | | | | | | |
| Action(s): | No further action is needed. | | | | | | | | |

| RCRA Element 7 – Identification of Alleged Violations | |
|---|---|
| Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information). | |
| Finding | All of the inspection reports reviewed included accurate compliance determinations, and inspection findings were promptly reported into RCRAInfo. |

| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | |
|--|---|---------------------|-------|--|------|--|------|
| Explanation: | <p>File review metric 7a assesses whether accurate compliance determinations were made based on inspection reports. Of the 21 inspection reports reviewed, 100% had accurate compliance determinations (i.e., proper identification of SNCs or SVs).</p> <p>In file review metric 7b, the files were also reviewed to assess if violations were determined within 150 days and entered into RCRAInfo. For purposes of the SRF evaluation, violation determinations were considered to be the date of the first informal enforcement action. There were 22 files with reported violations, 100% were issued informal enforcement actions within 150 days of the inspection. According to the ERP goal, 100% of violations should be determined within 150 days of the first day of the inspection. In Round 2, this is not an area of concern. It is an improvement from Round 1, where 86% of the inspection files reviewed identified compliance status within 150 days compared to 100% in Round 2.</p> | | | | | | |
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th>File Review Metrics</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>7a - % of inspection reports reviewed that led to accurate compliance determinations</td> <td>100%</td> </tr> <tr> <td>7b - % of violation determinations in the files that are reported timely (within 150 days)</td> <td>100%</td> </tr> </tbody> </table> | File Review Metrics | State | 7a - % of inspection reports reviewed that led to accurate compliance determinations | 100% | 7b - % of violation determinations in the files that are reported timely (within 150 days) | 100% |
| File Review Metrics | State | | | | | | |
| 7a - % of inspection reports reviewed that led to accurate compliance determinations | 100% | | | | | | |
| 7b - % of violation determinations in the files that are reported timely (within 150 days) | 100% | | | | | | |
| State Response: | <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> | | | | | | |
| Action(s): | No further action is needed. | | | | | | |

| RCRA Element 8 - Identification of SNC and HPV | |
|---|---|
| Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner. | |
| Finding | In the files reviewed, Alabama correctly makes SNC and SV violation determinations. However, Alabama is not entering the required SNC information into RCRAInfo in a timely manner. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |

| <p>Explanation:</p> | <p>Data metric 8a examines ADEM’s SNC identification rate for FY2008 and compares this rate with the national average. Alabama’s SNC identification rate is 4.3%, which is above the national average of 3.1%. This is a significant improvement. In the Round 1 SRF report, there was a recommendation related to the low SNC rate at that time, 0.9%, which was one-third of the national average. There was a concern that the low SNC rate was due to the misclassification of SNCs as SVs. SNC identification is not a continuing concern in Round 2. Of the 13 files reviewed, 100% of the violations were correctly classified, and SNCs accurately determined.</p> <p>Data metric 8b measures the number of SNCs determinations that were made within 150 days of the first day of inspection and reported into RCRAInfo, which is a requirement in the RCRA ERP. In FY2008, data metric 8b indicated that only 28.6% (4 of 14 SNCs) were entered in a timely manner. Subsequent information, which was verified by EPA, shows that this number was incorrect. Due to the factors described below, actually 59% (5 of 9 SNCs) were entered timely:</p> <ul style="list-style-type: none"> • Four facilities were initially designated as SVs, and were not subject to the 150 day ERP timeline. This reduced the number of SNCs from 14 to ten. • One enforcement action was rescinded, further reducing the number of SNCs to nine SNCs identified in FY2008. <p>Further review of Alabama’s RCRAInfo data shows that three of the four SNCs which did not meet the ERP timeline were similar facilities. All three facilities required a hazardous waste determination. Day zero was calculated based on the date of the hazardous waste determination and coded as a non-financial record review (NRR) in RCRAInfo. According to the RCRA ERP, day zero should be calculated based on the first day of inspection. Since the SNC entry rate of 59% (5 of 9) is still low compared to the national goal of 100%, this is an area for state improvement.</p> | | | | | | | | | | | | | | | |
|--|---|--------------|-------|---------|------------------------------|------|-----|---|-------|-----|--------------------|--|--|--|------|--|
| <p>Metric(s) and Quantitative Value:</p> | <table border="1"> <thead> <tr> <th>Data Metrics</th> <th>State</th> <th>Revised</th> </tr> </thead> <tbody> <tr> <td>8a - SNC identification rate</td> <td>4.3%</td> <td>n/a</td> </tr> <tr> <td>8b - % of SNC determinations made within 150 days</td> <td>28.6%</td> <td>59%</td> </tr> <tr> <td>File Review Metric</td> <td></td> <td></td> </tr> <tr> <td>8d - % of violations in files reviewed that were accurately determined to be SNC</td> <td>100%</td> <td></td> </tr> </tbody> </table> | Data Metrics | State | Revised | 8a - SNC identification rate | 4.3% | n/a | 8b - % of SNC determinations made within 150 days | 28.6% | 59% | File Review Metric | | | 8d - % of violations in files reviewed that were accurately determined to be SNC | 100% | |
| Data Metrics | State | Revised | | | | | | | | | | | | | | |
| 8a - SNC identification rate | 4.3% | n/a | | | | | | | | | | | | | | |
| 8b - % of SNC determinations made within 150 days | 28.6% | 59% | | | | | | | | | | | | | | |
| File Review Metric | | | | | | | | | | | | | | | | |
| 8d - % of violations in files reviewed that were accurately determined to be SNC | 100% | | | | | | | | | | | | | | | |
| <p>State Response:</p> | <p>This Metric states that only 59% of the SNCs were entered into RCRAInfo in a timely manner and this is an area for improvement. However, RCRA Element 3 states that SNC determinations were made and entered within the timeframe allowed by the ERP. This seems to be a contradiction.</p> <p>Alabama believes EPA’s interpretation of “Day Zero” above is too narrow and incomplete. The ERP states “Day zero is defined as the first day of any inspection or record review regardless of the duration of the inspection.” The</p> | | | | | | | | | | | | | | | |

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| | <p>three facilities referenced in EPA’s comments above were inspected and cited for not conducting hazardous waste determinations. The day zero for those violations was the first day of the inspection at each facility. When each facility replied with an adequate waste determination, the cited violations were returned to compliance leaving no unresolved violations linked to the first day of any inspections. If the review of the records submitted by the facilities to demonstrate compliance with the waste determination requirements revealed new violations, the new violations would have a “day zero” of the day the record review was conducted. A proper interpretation of “day zero” reveals all three facilities discussed above meet this metric and Alabama’s SNC entry rate is actually 89% (8 of 9).</p> <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> <p>ADEM has requested a training meeting for its RCRA managers jointly conducted by the EPA Region 4 RCRA Division management and the EPA Region 4 Environmental Accountability Division SRF RCRA program review team to help ADEM managers better understand the specific issues and interpretations EPA has relied upon in this finding.</p> <p>ADEM has committed to continue following the ERP and established EPA guidance regarding Day Zero to prevent this issue from recurring in the future.</p> <p>ADEM concurs with the proposed action below and welcomes EPA Region 4 RCRA & OPA Compliance & Enforcement Branch’s evaluation and coordination.</p> |
| <p>Action(s):</p> | <p>ADEM should ensure that the timelines in the RCRA Enforcement Response Policy (ERP) are met. To assist in achieving this goal, EPA Region 4 will provide training to ADEM on the ERP, specifically with the identification of “day zero” of the enforcement response timeline. Beginning in FY2010, the EPA Region 4 RCRA & OPA Compliance & Enforcement Branch (ROECB) will evaluate progress in meeting the ERP timelines of identifying SNCs within 150 days of day zero during the routine conference calls with Alabama. In each call, new SNCs will be evaluated against day zero in RCRA Info. “Completion” for this action is when a pattern of timely identification of SNCs in RCRA Info has been established by ROECB.</p> |

| RCRA Element 9 - Enforcement Actions Promote Return to Compliance | | | | | | | | | |
|--|---|---------------------|-------|--|---|--|-----------------|---|---------------|
| Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame. | | | | | | | | | |
| Finding | In the files reviewed, 100% of SNCs and SVs were issued enforcement responses that included corrective action to return the facilities to compliance. | | | | | | | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | |
| Explanation: | <p>Under file review metric 9a, EPA reviewed a total of 22 files with enforcement actions. Thirteen were SNC facility files, and nine were SV facility files.</p> <p>File review metric 9b is the percentage of the SNC enforcement responses reviewed that returned or will return the facility to compliance. In FY2008, 13 SNCs files were reviewed, and 11 files had documentation in the files showing the source returned or will return to compliance. Two of the enforcement cases had not returned to compliance due to ongoing litigation, so these cases were not counted in the percentage. The final metric shows 100% of SNC cases have enforcement responses that required a return to compliance.</p> <p>File review metric 9c is the percentage of SV enforcement responses reviewed that returned or will return the facility to compliance. In FY2008, 100% of the enforcement actions had documentation in the file showing that the source had returned to compliance.</p> | | | | | | | | |
| Metric(s) and Quantitative Value: | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">File Review Metrics</th> <th style="text-align: right;">State</th> </tr> </thead> <tbody> <tr> <td>9a - # of enforcement responses reviewed</td> <td style="text-align: right;">13 Formal Actions 9 Informal Actions</td> </tr> <tr> <td>9b - % of enforcement responses that returned SNCs to compliance</td> <td style="text-align: right;">100% (11 of 11)</td> </tr> <tr> <td>9c - % of enforcement responses that returned SVs to compliance</td> <td style="text-align: right;">100% (9 of 9)</td> </tr> </tbody> </table> | File Review Metrics | State | 9a - # of enforcement responses reviewed | 13 Formal Actions 9 Informal Actions | 9b - % of enforcement responses that returned SNCs to compliance | 100% (11 of 11) | 9c - % of enforcement responses that returned SVs to compliance | 100% (9 of 9) |
| File Review Metrics | State | | | | | | | | |
| 9a - # of enforcement responses reviewed | 13 Formal Actions 9 Informal Actions | | | | | | | | |
| 9b - % of enforcement responses that returned SNCs to compliance | 100% (11 of 11) | | | | | | | | |
| 9c - % of enforcement responses that returned SVs to compliance | 100% (9 of 9) | | | | | | | | |
| State Response: | | | | | | | | | |
| Action(s): | No further action is needed. | | | | | | | | |

| RCRA Element 10 - Timely and Appropriate Action | |
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| Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media. | |
| Finding | Timely enforcement response for SNC violations is a continuing concern for Alabama. In FY2008, appropriate enforcement responses were taken to address violations. |

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| <p>Is this finding a(n) (select one):</p> | <p><input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice</p> |
| <p>Explanation:</p> | <p>Element 10 is supported by Data Metrics 10a, and File Review Metrics 10c and 10d.</p> <p>The RCRA ERP criteria states that RCRA SNC facilities should be addressed through a final formal enforcement action within 360 days, or that the facility is referred to a state attorney general for enforcement. The ERP also recognizes that up to 20% of the cases may exceed this timeline; therefore, the minimum national goal is 80%. Initially, data metric 10a indicated that only 28.6% (4 of 14) of the Alabama enforcement actions met the ERP timelines. A closer review by EPA of the RCRAInfo data shows that actually 77% of the cases had met the ERP timeline. One enforcement action had been rescinded, thereby reducing the number to 13 cases. Six of the cases were resolved within 360 days from day zero. So the revised number is 10 of 13 cases, or 77%, that met the ERP timelines.</p> <p>There are a couple of contributing factors as to why the six cases were not captured by the data metrics as meeting the 360 timeline. Two cases were originally SVs that did not return to compliance, and were reclassified as SNCs. The date of the SNC reclassification became day zero, rather than the first day of inspection (which is how the SRF data metric is calculated.) For the other four cases, OECA has indicated that the likely cause for these SNCs showing up as exceeding ERP timelines is that the SNCs were not linked to the final enforcement actions in RCRAInfo, which is an ADEM data entry concern. All SNCs and corresponding enforcement actions should be linked in RCRAInfo to show the violations as being resolved.</p> <p>Even at 77%, the national goal of timely enforcement at 80% of SNCs was not met. This is a continuation of the issue identified in Round 1 of the SRF and was further verified by a file review of SNC timelines conducted as part of file review metric 10c. The enforcement response times have significantly improved from Round 1, where only 20% of the cases met the timelines. However this is an area for state improvement since the national goal was not met.</p> <p>File review metric 10c measures the percentage of enforcement responses in the files reviewed that are taken in a timely manner (for both SV and SNC facilities). It serves as a verification measure for data metric 10a. Sixteen of 20 facilities, or 80%, of the enforcement actions reviewed, including SNC and SV facilities, were addressed within the ERP timeframes, as outlined below:</p> |

| | <p>▪ <u>SV timeliness</u>: There were nine SV files reviewed where informal enforcement actions were taken. Only one enforcement action did not meet the ERP timeline. At EPA’s request, ADEM delayed returning the facility to compliance based on pending resolution of an EPA regulatory policy. As a result, this one facility was removed from the data metric analysis reducing the SV universe to eight. Therefore, 100% of the SVs met the ERP.</p> <p>▪ <u>SNC timeliness</u>: There were 12 SNC files reviewed where final formal enforcement actions were taken in FY2008. Eight of the 12 files, or 67%, met the ERP timelines. This percentage supports the determination made under data metric 10a that ADEM is not timely in issuing formal enforcement responses for SNCs.</p> <p>The Round 1 review showed that 80% of the Consent Orders reviewed in Alabama exceeded the 360 days time line for entering into a final order. One of the recommendations in the Round 1 report was that in order to achieve timely enforcement actions for significant violations, ADEM should factor the public notice proceedings into the enforcement response time. This area continues to be a problem in the Round 2 review. In some enforcement cases, Alabama is entering the public notice date into RCRAInfo as the date of the final order. This is not in accordance with the RCRA ERP. Only the signed enforcement orders are considered final. A designation that the facility is in physical compliance or that a compliance schedule has been established (SNN code) should be entered into RCRAInfo based on the date of the signed enforcement order instead of the public notice date. As mentioned before, timely enforcement response for SNCs is an area for State Improvement.</p> <p>File review metric 10d is the percentage of enforcement responses reviewed where SNC and SVs facilities are addressed with an appropriate enforcement action. An appropriate action for SNCs is a formal enforcement action that results in an order with injunctive relief and/or penalties as appropriate. An informal response is the minimally appropriate enforcement response for SVs. For Alabama, 95% (20 of 21) of the enforcement responses were addressed appropriately. One formal enforcement action did not include a penalty. This case involved an emergency removal, and is considered an exception to Alabama’s standard procedures so it is not an area of concern. This is also an increase from Round 1, where 87% of violations were addressed appropriately.</p> | | | | | | | | | | | | | | | | |
|--|---|--------------------|----------------------|--------------|----------------|----------------------------|-----|-------|-----|---------------------|--|--------------|--|--|--|-----|------------------|
| <p>Metric(s) and Quantitative Value:</p> | <table border="1"> <thead> <tr> <th><u>Data Metric</u></th> <th><u>National Goal</u></th> <th><u>State</u></th> <th><u>Revised</u></th> </tr> </thead> <tbody> <tr> <td>10a - % timely SNC actions</td> <td>80%</td> <td>28.6%</td> <td>77%</td> </tr> <tr> <td colspan="2"><u>File Metrics</u></td> <td colspan="2"><u>State</u></td> </tr> <tr> <td>10c - % of enforcement actions taken in a timely manner (SV & SNC)</td> <td></td> <td>80%</td> <td>(16 of 20 cases)</td> </tr> </tbody> </table> | <u>Data Metric</u> | <u>National Goal</u> | <u>State</u> | <u>Revised</u> | 10a - % timely SNC actions | 80% | 28.6% | 77% | <u>File Metrics</u> | | <u>State</u> | | 10c - % of enforcement actions taken in a timely manner (SV & SNC) | | 80% | (16 of 20 cases) |
| <u>Data Metric</u> | <u>National Goal</u> | <u>State</u> | <u>Revised</u> | | | | | | | | | | | | | | |
| 10a - % timely SNC actions | 80% | 28.6% | 77% | | | | | | | | | | | | | | |
| <u>File Metrics</u> | | <u>State</u> | | | | | | | | | | | | | | | |
| 10c - % of enforcement actions taken in a timely manner (SV & SNC) | | 80% | (16 of 20 cases) | | | | | | | | | | | | | | |

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| | <p>10d- % of enforcement actions that are appropriate to the violations - 95% (20 of 21 cases)</p> |
| <p>State Response:</p> | <p>In <i>Mcabee v. The City of Fort Payne</i> (January 23, 2003), the Eleventh Circuit ruled that ADEM’s public-participation provisions under which enforcement orders were issued were not comparable to those in the Clean Water Act. As a result, Section 22-22A-5 of the Alabama Environmental Management Act was amended to require a 30 day public notice period for all enforcement orders issued by ADEM with a penalty.</p> <p>Based on the above circumstances, negotiations between EPA Region 4 and Alabama resulted in an agreement that since the consent orders would already be signed by the facility before the order went on public notice and virtually no other state had such a public notice requirement, the enforcement action date entered into RCRAInfo for the orders would be the date the orders went on public notice.</p> <p>Alabama believes that EPA’s retroactive disregard of the above agreement is counter to the spirit and intent of the SRF.</p> <p>Alabama questions why a rate of 77% timely SNC actions is characterized as “Area for State Improvement” when 80% would be characterized as “Meets SRF Program Requirements.” That leaves a very narrow range of 78-79% for characterization as “Area for State Attention.”</p> <p>Even if the public notice agreement above is ignored, the consent orders for two of the facilities that were not signed and finalized by the ADEM Director by 360 days were over that suspense by a combined total of 21 days. One was over by two days and one was over by 19 days. In both instances the facilities had signed the orders well before the 360 day suspense.</p> <p>EPA has admitted that round 1 of the SRF was severely flawed and in many instances the report only reflected EPA’s initial findings without any resolution or rebuttal from the states. In round 1, Alabama was not provided the names of facilities where compliance & enforcement activities were believed to not be in compliance with SRF metrics. Additionally, there was no attempt to resolve or come to any agreement on the “findings” in SRF Round 1. For these reasons, any references to findings in the SRF Round 1 report are meaningless.</p> <p>The above discussion notwithstanding, the Department has put a procedure in place to ensure that completion is at signature by the ADEM Director (even after public notice) within the required timeframe.</p> <p>ADEM concurs with the proposed action below and welcomes EPA Region 4 RCRA & OPA Compliance & Enforcement Branch’s evaluation and coordination.</p> |

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| Action(s): | ADEM should ensure that the timelines in the RCRA Enforcement Response Policy are met. Beginning in FY2010, the EPA Region 4 RCRA & OPA Compliance & Enforcement Branch began evaluating progress in meeting the ERP timelines during the routine conference calls with Alabama. In each conference call, the most recent Alabama SRF data metrics for SNC actions will be evaluated against the ERP timelines. "Completion" for this action is when a pattern of timely SNC actions has been established by ROECB. Regarding the public notice requirements, EPA recommends that ADEM factor these proceedings into the enforcement response time in order to achieve timely enforcement actions for significant violations. The dates that the final enforcement actions are signed should be the dates entered into RCRAInfo. |
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RCRA Element 11 - Penalty Calculation Method

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

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| Finding | Alabama does not maintain penalty documentation in their enforcement files, and no other penalty calculations were provided to EPA upon request. Thus the adequacy of the gravity and economic benefit components of EPA's penalty policy could not be examined. |
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| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
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| Explanation: | <p>Element 11 examines the state documentation of their penalty calculations. Specifically, the metric is determining if the state penalty includes a gravity portion of the penalty, and where appropriate, economic benefit. In their enforcement orders, ADEM lists the "consideration" of the following six factors in the Alabama Code Section 22-22A-5(18): <i>"In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty."</i></p> <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. Therefore EPA cannot determine if the economic benefit and gravity portion of the penalties are assessed and recovered or that the BEN model, the mode used for calculating economic benefit, is used appropriately. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement.</p> |
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| <p>Metric(s) and Quantitative Value:</p> | <p><u>File Metric</u> 11a - % of penalty calculations reviewed that consider and include where appropriate gravity and economic benefit consistent with national policy</p> <p><u>State</u> 0%</p> |
| <p>State Response:</p> | <p>As a result of the SRF round 1, Alabama has formalized its penalty calculation process. Refinement of that process has been continuous and has resulted in a penalty calculation worksheet that is an integral part of all proposed and final administrative orders. The Alabama Environmental Management Act is very specific with respect to administrative penalty orders: [1] Six penalty factors are listed in the Act (seriousness of the violation, the economic benefit derived from delayed compliance, etc.) [2] The Act establishes a minimum penalty of \$100 per violation per day. This minimum penalty concept appears to be unique to Alabama. The six penalty factors can add to the penalty but cannot reduce the penalty below the \$100 per violation per day. [3] A 30-day public comment period is required by the Act with notice published in a newspaper of general circulation in the area of the alleged violation and on the department’s web site. An opportunity for a hearing is required.</p> <p>The processes of the Act are defined as follows. Proposed orders detail the violations and provide an explanation of the penalty amount associated with the required penalty factors. All proposed orders, including the penalty calculation worksheet, are subject to a 30-day public comment period. All comments are reviewed and necessary adjustments are made to the order and/or penalty prior to finalization of the order. Alabama’s web-based e-file system is available for citizens to view at any time the proposed order, the public notice, the comments received and the final order. Since the full implementation of this process on October 1, 2009, little or no comments have been received as a result of the public comment period. Alabama is the only state in Region 4 which provides this 30-day comment period and full web access to the facility files containing proposed orders, penalty worksheets and final orders.</p> <p>This methodology provides full transparency with documentation of the violations and penalties. In FY08 (the SRF review year), Alabama issued 170 orders totaling \$2.6 million. Looking at media specific penalties, Alabama compared favorably with other states nationally. Alabama ranked 6th among the states in RCRA penalties, 11th in CWA and 20th in CAA in 2008. Alabama currently meets the requirements of the state penalty policy in Alabama Code Section 22-22A-5(18) and SRF elements 11 for CCA, CWA and RCRA. Alabama’s penalty calculation method is clear, transparent and logical with documented performance based results.</p> <p>The Department will continue to refine its penalty calculation process and submit a report within six months of the date of the final SRF report as requested in EPA’s recommended actions.</p> |

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| Action(s): | Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA. |
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RCRA Element 12 - Final Penalty Assessment and Collection

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

| Finding | Alabama did not provide EPA with documentation of the rationale between their initial and assessed penalty. | | | | | | |
|--|---|-------------|-------|--|----|---|-----|
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | |
| Explanation: | <p>During the SRF review there were no penalty calculations in the files, and no penalty calculations were provided for EPA for review. It is important that documentation of any differences and rationale between initial and final penalty calculations are maintained to determine if appropriate penalties have been recovered for the violations cited in the enforcement actions. For example, a downward adjustment of the penalty in the final enforcement action may take place due to new information provided in settlement negotiations, or a facility’s inability to pay a penalty. Without the final penalty calculation, it cannot be determined if economic benefit and a gravity portion of the penalty is recovered in the final enforcement order. This is a continuing issue from Round 1 of the SRF, and is an area for state improvement.</p> <p>File Metric 12b assesses whether the final penalty was collected. There were nine enforcement actions reviewed to determine if penalties were collected. According to the financial records, six out of nine enforcement actions (or 67%) had documentation that penalties were collected. ADEM should ensure procedures are in place to document the payment of penalties.</p> | | | | | | |
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th>File Metric</th> <th>State</th> </tr> </thead> <tbody> <tr> <td>12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty</td> <td>0%</td> </tr> <tr> <td>12b - % of final formal actions that document the collection of the final penalty</td> <td>67%</td> </tr> </tbody> </table> | File Metric | State | 12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | 0% | 12b - % of final formal actions that document the collection of the final penalty | 67% |
| File Metric | State | | | | | | |
| 12a - % of formal enforcement actions that document the difference and rational between initial and final assessed penalty | 0% | | | | | | |
| 12b - % of final formal actions that document the collection of the final penalty | 67% | | | | | | |
| State Response: | Alabama has incorporated a penalty calculation worksheet in all of the administrative penalty orders. This worksheet is a part of the proposed order sent to the violator which is subjected to a 30-day public comment period. The final order contains the worksheet as adjusted for any relevant comments. The difference in the penalty, if any, is documented. All of these documents | | | | | | |

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| | are placed in the electronic facility file and are available to the public through Alabama's web-based e-file system. |
| Action(s): | Within 6 months of the date of the final SRF report, Alabama should develop and implement procedures for the documentation of initial and final penalty calculation, including both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. This documentation should be made available for review by EPA. |

V. ELEMENT 13 – ADEM elected not to submit information under Element 13.

**City of Huntsville Division of Natural Resources
and Environmental Management**

**Final State Review Framework Report – Round 2
Table of Contents**

- I. EXECUTIVE SUMMARY**
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AND REVIEW PROCESS**
- III. STATUS OF OUTSTANDING RECOMMENDATIONS
FROM PREVIOUS REVIEWS**
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I. EXECUTIVE SUMMARY

In the spring of 2009, the Environmental Protection Agency (EPA) Region 4 initiated the first State Review Framework (SRF) evaluation of the City of Huntsville Division of Natural Resources and Environmental Management (HDNREM). The SRF is a program designed to ensure EPA conducts oversight of state and local compliance and enforcement programs for the Resource Conservation & Recovery Act (RCRA) Subtitle C program, the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program, and the Clean Air Act (CAA) Stationary Source program in a nationally consistent and efficient manner. The HDNREM is a local air enforcement agency with responsibility for CAA compliance and enforcement within the City of Huntsville. This is the first SRF evaluation EPA has conducted in Huntsville, and it is based on FY 2008 compliance and enforcement activities.

SRF evaluations look at twelve program elements covering: data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment and collection). Reviews are conducted in three phases, including (1) analyzing information from the national data systems, (2) reviewing a limited set of local program files, and (3) developing findings and recommendations. Considerable consultation is built into the process to ensure EPA and the local program understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The SRF Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. SRF Reports are not used to compare or rank state and local programs.

A. Major Local Priorities and Accomplishments

HDNREM did not choose to provide any additional information in this section of the report concerning the program’s priorities or accomplishments.

B. Summary of Results

- ◆ **Recommendations from Round 1** – The Huntsville local program was not reviewed during Round 1.
- ◆ **Summary of Round 2 Results** – The findings for the HDNREM Round 2 SRF evaluation are listed below for Elements 1 through 12. For each Element, a finding is made in one of the four following categories:
 - **“Meets SRF Program Requirements”** – This indicates that no issues were identified for that element.
 - **“Area for Local Attention”** – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies are being implemented with minor deficiencies that the local program needs to pay attention to in order to strengthen its performance, but are not

significant enough to require the region to identify and track local program actions to correct. This can describe a situation where a local program is implementing either EPA or local policy in a manner that requires self-correction to resolve concerns identified during the review. These are single or infrequent instances that do not constitute a pattern of deficiencies or a significant problem. These are minor issues that the local program should self-correct without additional EPA oversight. However, the local program is expected to improve and maintain a high level of performance.

- **“Area for Local Improvement”** – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies that are being implemented by the local program have significant problems that need to be addressed and that require follow-up and EPA oversight. This can describe a situation where a local program is implementing either EPA or local policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the local program is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems, and should have well defined timelines and milestones for completion. The recommendations will be monitored in the SRF Tracker.
- **“Good Practice”** – The SRF data metrics and/or the file reviews indicate that activities, processes, or policies are being implemented exceptionally well and which the local program is expected to maintain at a high level of performance. This may include specific innovative and noteworthy activities, processes, or policies that have the potential to be replicated by other state or local programs and that can be highlighted as a practice for other states and locals to emulate. No further action is required by either EPA or the local program.

◆ **CAA Results**

- **Meets SRF Program Requirements** – In the CAA SRF evaluation, the following elements met the SRF program requirements:
 - Element 1 - Data Completeness
 - Element 4 - Completion of Commitments
 - Element 5 - Inspection Coverage
 - Element 6 - Quality of Inspection or Compliance Evaluation Reports
 - Element 8 - Identification of SNC and HPV
 - Element 9 - Enforcement Actions Promote Return to Compliance
 - Element 10 - Timely and Appropriate Action
 - Element 12 - Final Penalty Assessment and Collection
- **Area for Local Attention** – There was one minor area identified for local attention:
 - Element 7 - Identification of Alleged Violations

- Area for Local Improvement - There were three CAA Elements where a recommendation for local improvement was identified in the SRF evaluation:
 - Element 2 - Data Accuracy
 - Element 3 - Timeliness of Data Entry
 - Element 11 - Penalty Calculation Method
- Good Practice – There were no SRF Elements identified in this category.

C. Major Cross-Media Findings and Recommendations

Since the review evaluated only the Huntsville CAA enforcement program, there were no cross-media findings or recommendations.

II. BACKGROUND INFORMATION ON LOCAL PROGRAM AND REVIEW PROCESS

A. General Program Overview

Agency Structure

HDNREM is responsible for administering the Huntsville's Air Pollution Control, Blasting Control, and Noise Control Programs. In addition, HDNREM coordinates the city's compliance with EPA storm water regulations, enforces Huntsville's Storm Water Quality Ordinance, and conducts initial investigations of possible surface water quality problems. In addition, HDNREM provides environmental support to city agencies, including performance of asbestos inspections, Phase I Site Assessments, and facility environmental audits. Details about each of the programs are provided below:

- **Air Pollution Control (APC) Program** - In administering the APC program, HDNREM develops strategies and regulations to maintain compliance with the National Ambient Air Quality Standards (NAAQS); enforces strategies and regulations including provisions of the federal Clean Air Act; performs ambient air monitoring to demonstrate compliance with the NAAQS; evaluates pollution control equipment and issues permits to industrial and area sources; performs compliance inspections of sources; and ensures control of open burning and proper asbestos removal.
- **Air Quality Information** – HDNREM also provides local air quality data to the public through the development of a daily air quality index which is provided to various media outlets. This information is published or aired five days each week in conjunction with weather reporting. Pollen counts and identification are also provided three times each week. An Air Quality Report for the Huntsville area has been prepared by HDNREM which summarizes ambient air quality data for major pollutants, and presents long term trends graphically. Emission estimates are also included in the report.
- **Indoor Air** – Information on indoor air pollution, sources of pollutants, and corrective action alternatives is provided to Huntsville residents by Division personnel. Indoor air inspections

are performed at the request of homeowners who are unable to determine possible sources or who have difficulty in selecting an appropriate remedy.

- **Blasting Control Program** – Huntsville's Blasting Ordinance requires persons detonating explosives to be certified and requires a permit for blasting within the City of Huntsville. Ground Vibrations and airblast standards are enforced by HDNREM by reviewing site monitoring reports, performance of inspections and conducting seismographic monitoring. Blaster training and certification programs are administered by HDNREM.
- **Noise Control Program** - Huntsville's Noise Ordinance limits the sound level of community and vehicle noise impacting area citizens. The standards of the Ordinance are based on receiving land use categories and are designed to prevent exposure to excessive noise. HDNREM enforces the Ordinance by conducting field measurements of community noise levels and conducting investigations of citizen complaints. Provisions of the Ordinance which address excessive noise from motor vehicles on public premises are enforced by the Huntsville Police Department.
- **Storm Water Quality Control Program** – HDNREM coordinates activities by the City of Huntsville designed to ensure compliance with state and federal storm water quality requirements for medium sized municipalities. These requirements include implementation of a comprehensive municipal storm water management program, as well as requirements for monitoring storm water quality. In addition to assembling information gathered by other City Departments to satisfy reporting requirements, HDNREM conducts industrial inspections and investigates discharges of pollutants to the storm sewer system. HDNREM also performs surface water quality investigations for the storm water quality program.

Compliance/Enforcement Program Structure

For the state of Alabama, the Air Division of the Alabama Department of Environmental Management (ADEM) administers Alabama's Air Pollution Control Program pursuant to the authorities granted by the provisions of the Alabama Environmental Management Act and the Alabama Air Pollution Control Act. The Air Division also administers the delegable provisions of the Clean Air Act. The Air Division has primary jurisdiction over all air emission sources within the State, except those emission sources located within the City of Huntsville and Jefferson County. The Air Pollution Control Programs in these areas are administered by HDNREM and the Jefferson County Department of Health, respectively. The entire State of Alabama is covered by the EPA-approved State Implementation Plan (SIP); the two local programs do not have separate portions in the Alabama SIP.

The Rules and Regulations for the Control of Air Pollution within the City of Huntsville, Alabama, adopted by the Huntsville City Council by Ordinance 72-156, as amended, authorize the Director of HDNREM to administer the program. The Director is subject to the general supervision and control of the Mayor, and also answers to the Air Pollution Control Board.

HDNREM develops and enforces strategies and regulations to maintain compliance with the National Ambient Air Quality Standards (NAAQS); performs ambient air monitoring to demonstrate compliance with the NAAQS; evaluates pollution control equipment and issues

permits to industrial and area sources; performs compliance inspections of sources; and ensures control of open burning and proper asbestos removal. The HDNREM also investigates tips and complaints from citizens who observe or suspect a violation of local air pollution, blasting, or noise control regulations

Huntsville's regulations authorize the Director of HDNREM to address violations through issuance of an administrative order or in a civil action in the Circuit Court of Madison County. The City Attorney is responsible for bringing such actions in the Circuit Court at the request of the Mayor or governing body of the City of Huntsville. The Air Pollution Control Board may also make recommendations concerning the bringing of said actions to the Mayor or to the Mayor and City Council. Recipients of an administrative action may file a request for a hearing with the Air Pollution Control Board within 15 days to contest the action.

Huntsville's regulations authorize civil penalties to be assessed or recovered of between \$100 and \$25,000 for each violation, provided that the total penalty assessed in an order issued by the Director does not exceed \$250,000.

Local Agencies Included/Excluded from Review

HDNREM is one of two local air pollution control agencies in Alabama that administers the Air Pollution Control Program within their jurisdiction. EPA's January 2008 "Guidelines for Including Local Agencies in the State Review Framework," establishes criteria for determining which local agencies should receive a separate SRF review from the state. Since HDNREM has a formal relationship and accountability directly with EPA through the Air Planning Agreement and the negotiation of a Compliance Monitoring Strategy (CMS) Plan, the region elected to conduct a separate and independent review of the HDNREM program. A separate SRF evaluation of the ADEM enforcement programs is also occurring in 2009.

Roles and Responsibilities

Huntsville is staffed by seven full-time employees. This includes the Director and Deputy Director as well as an administrative assistant. The Director and Deputy Director participate in field inspections and compliance determinations. Nearly all enforcement actions are discussed and handled through the Director.

Resources

CAA Resources (Stationary Sources):

- Staffing – Huntsville is a comparatively small program in relation to state environmental programs. There are seven people on staff, four of which have been part of the program for 20 or more years. Huntsville is the delegated authority for implementation of all CAA requirements for all sources of air pollutants in the Huntsville Municipal Area, including asbestos enforcement, air monitoring, and AFS database management. They also enforce Municipal open burning, odor, explosive blasting and noise ordinances, coordinate compliance with the Huntsville's NPDES storm water discharge permit, and enforce local storm water quality regulations. Staff members participate in all of the activities, each with a focus on particular areas.

- Resource Constraints – HDNREM’s program is funded through a combination of the CAA §105 grant from EPA, permit and emissions fees from regulated sources, and city funds. The amount of any monetary penalties collected by the program as a result of enforcement actions are deducted from funds the city provides.

Staffing / Training

Due to a tight budget for travel and training, the majority of training is on-the-job. Senior staff members will take newer staff on inspections and mentor them in other areas. The Director requires two staff members to be Visible Emissions certified and two members to be Asbestos certified. Regulatory updates provided by ADEM are attended when possible.

Data Reporting Systems/Architecture

HDNREM does not have a local electronic database that houses enforcement and compliance data, although the Director manually tracks certain key submittals from Title V sources through paper spreadsheets. HDNREM enters minimum data requirements (MDRs) into AFS manually through a direct online connection. The person responsible for AFS data entry talks to each individual that performs compliance inspections to obtain a list of facilities inspected during the calendar quarter, the compliance status of the facility, whether any stack testing was conducted, whether applicable requirements have changed, etc. This data entry into AFS typically occurs on a quarterly basis, with updates coinciding with submission of the Consolidated Quarterly Reports under the §105 Air Program Grant. However, these procedures do make it difficult for HDNREM to report MDRs to EPA in a timely manner.

B. Process for SRF Review

The Huntsville SRF Evaluation was initiated with an April 22, 2009, kick-off letter to the HDNREM Director from the EPA Region 4 Acting Associate Director of the Office of Environmental Accountability (OEA). A conference call was held on May 21, 2009, between EPA and the HDNREM Deputy Director to discuss the data metrics. Following the call, EPA sent via email the “drill down” results for metrics 1c4, 3b1, and 3b2, and provided instructions for securing access to OTIS in order to see additional detailed results. On June 5, 2009, the Preliminary Data Analysis (PDA) and File Selection were sent to HDNREM, and the onsite file review took place on June 16-17, 2009, at the HDNREM office in Huntsville, Alabama. The EPA team held an opening conference in which the initial findings of the PDA were discussed, and the objectives and focus areas for the file review were outlined. In addition, pursuant to the December 9, 2005, memorandum from Lisa Lund entitled “State Review Framework and CAA Compliance Monitoring Strategy Evaluations,” EPA conducted a Compliance Monitoring Strategy (CMS) review with the HDNREM Director. The feedback received during this review is reflected in the foregoing sections of this report. At the closing conference, EPA relayed tentative findings from the file review and discussed the timeline for the remainder of the evaluation. On June 18, 2009, EPA provided HDNREM a list of data discrepancies identified under Element 2. EPA communications throughout the review have been with either the Director or the Deputy Director. Finally, EPA forwarded the draft SRF report to HDNREM for review on August 26, 2009. The fiscal year of the HDNREM SRF review was FY 2008.

HDNREM and EPA Region 4 Contacts:

| Huntsville | EPA Region 4 |
|--|--|
| Danny Shea, Director – HDNREM Gloria Mims, Deputy Director – HDNREM | Mark Fite – OEA Stephen Rieck - Air, Pesticides & Toxics Management Division |

III. OUTSTANDING STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS

No review of the HDNREM program was conducted during Round 1.

IV. FINDINGS

The findings for the HDNREM SRF evaluation are listed below for Elements 1 through 12.

| CAA Element 1 – Data Completeness | | | |
|--|--|-------------|--------------|
| Degree to which the Minimum Data Requirements are complete. | | | |
| Finding: | In general, Huntsville has ensured that all Minimum Data Requirements (MDRs) were entered into the Air Facility Subsystem (AFS). | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | In the Preliminary Data Analysis (PDA), Huntsville met the national goal of 100% for Metrics 1h1, 1h2, and 1h3, which measure completeness in reporting of HPV-related minimum data requirements (MDRs). In addition, Huntsville met the national goal of 100% for Metric 1c6, which indicates Huntsville entered MACT subprogram designations into AFS for all of their MACT sources with full compliance evaluations (FCEs) conducted after 10/1/05. Although the results for Metric 1c4 (66.7%) indicated a potential concern with respect to the entry of NSPS subpart data, in reality, only one source was missing the appropriate subpart designation. Huntsville has since added the subpart information for that source into AFS, bringing their percentage to 100%. As a result, Huntsville has ensured that all MDRs were entered into AFS. Therefore, this element meets SRF program requirements. | | |
| Metric(s) and Quantitative Value: | <u>Data Metric</u> | <u>Goal</u> | <u>Local</u> |
| | 1c4 - CAA subprogram designation: % NSPS Facilities with FCE conducted after 10/1/05 | 100% | 66.7% |
| | 1c5 - CAA subprogram designation: % NESHAP facilities with FCE conducted after 10/1/05 | 100% | NA |
| | 1c6 - CAA subprogram designation: % MACT facilities with FCE conducted after 10/1/05 | 100% | 100% |

| | | | |
|-----------------|---|------|------|
| | 1h1 - HPV Day Zero Pathway Discovery date: Percent DZs reported after 10/1/05 with discovery | 100% | 100% |
| | 1h2 - HPV Day Zero Pathway Violating Pollutants: Percent DZs reported after 10/1/05 | 100% | 100% |
| | 1h3 - Percent DZs reported after 10/1/05 with HPV Violation Type Code | 100% | 100% |
| Local Response: | None. | | |
| Action(s): | No further action needed. | | |

| CAA Element 2 – Data Accuracy | |
|--|---|
| Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.). | |
| Finding | Data reported into the national data system (AFS) is not always accurately entered and maintained. In addition, Huntsville’s reporting of the compliance status of one HPV source was not consistent with national policy. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input checked="" type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>The majority of files reviewed (77%) revealed one or more data inaccuracies or discrepancies between the file materials and AFS. Of the 13 files reviewed, eight had one or more inaccurate facility related data items, including zip code, SIC code, facility name, or address shown in AFS. One file showed both VOC and HAPs as regulated pollutants in the SM permit, but AFS only indicated VOCs as regulated. One file indicated applicability of the subpart PPPP MACT (starting on 1/8/08), but this was not shown in AFS. Finally, one file indicated a stack test was done that was not reported in AFS. Although these issues are dispersed among several facilities, taken together, they reveal some lack of attention to data accuracy. Huntsville attributes this to resource constraints and competing priorities. Although Huntsville has made significant progress in resolving the discrepancies identified during the file review, this has been identified as an area for local attention to ensure that accurate data is maintained in the future.</p> <p>Data metric 2b1 measures the percent of stack tests that do not have a result coded into AFS, and Huntsville met the national goal of 0%. Metric 2a is designed to provide an indication of whether compliance status is being accurately reported in AFS. EPA identified Huntsville’s value of 100% (1 HPV/1 non-compliant source) for Metric 2a as a potential concern, since it did not meet the national goal of $\leq 50\%$. To follow up on the potential concern raised by this metric, a closer evaluation of the violation was conducted during the file review.</p> <p>A review of the file revealed that although the source failed a stack test in February 2008 and an HPV was recorded in March 2008, the compliance</p> |

| | | | |
|-----------------------------------|--|----------------------|--------------|
| | status of the source was not changed in AFS to “in violation” until July 2008. This is not consistent with the information collection request (ICR) approved by OMB which requires reporting of violations within 60 days. Therefore, since the file review confirmed that Huntsville did not accurately report the compliance status of the source, this is an area for local improvement. The Region’s recommendation focuses on the correction of historical data in AFS. | | |
| Metric(s) and Quantitative Value: | <u>Data Metric</u> | <u>National Goal</u> | <u>Local</u> |
| | 2a – # of HPVs / # of noncompliant sources | ≤ 50% | 100% |
| | 2b1 - % Stack Tests without Pass/Fail result | 0% | 0% |
| | 2b2 - No. of Stack Test Failures | - | 1 |
| | <u>File Review Metric</u> | | <u>Local</u> |
| | 2c - % files with MDR data accurate in AFS | - | 23% |
| Local Response: | None. | | |
| Action(s): | By 10/31/09, Huntsville shall correct the historical compliance status of the source in AFS to ensure it is consistent with national policy. | | |

| CAA Element 3 - Timeliness of Data Entry | |
|--|--|
| Degree to which the Minimum Data Requirements are timely. | |
| Finding: | The timeliness of Huntsville’s MDR reporting fell significantly short of the national goal. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input checked="" type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | <p>This element examines the timeliness of Huntsville’s data entry into AFS. All three of the data metrics for this element indicate a problem with the timeliness of data entry. More specifically, Metric 3a had a value of 0%, indicating that all HPV related MDRs were entered late. In reality, Huntsville had only one HPV in the review year, and it was not entered into AFS until 126 days after identification (EPA policy requires entry within 60 days). Similarly, Metric 3b2 had a value of 0%, which meant that all enforcement related MDRs were entered late, but again, Huntsville had only two enforcement related actions to report during 2008. It should be noted that although these metrics accurately portray that timeliness is a concern, the small size of the Huntsville program may tend to exaggerate the severity of the problem. For Metric 3b1, 60% (15 out of 25) of Huntsville’s compliance monitoring MDRs were timely (<60 days). That means that the remaining 10 compliance monitoring activities (40%) were not entered within the 60 days. Six of these were entered into AFS within 90 days, three were entered within 120 days, and one action took 159 days to enter. In response to these results in the PDA, Huntsville indicated that their practice has been to update their data into AFS on a quarterly basis, which likely accounts for the majority of this late reporting. Therefore, based on</p> |

| | <p>the data metrics, EPA has designated this element as an area for local improvement.</p> <p>An analysis of Huntsville’s FY2009 performance to date for compliance monitoring MDRs (Metric 3b1) shows significant progress, indicating that Huntsville is currently achieving the National Goal of 100%. However, to ensure that timely reporting of MDRs into AFS is maintained, EPA has made recommendations below.</p> | | | | | | | | | | | | |
|---|--|-------------|---------------|-------|----------------------------------|------|----|---|------|-------|---|------|----|
| Metric(s) and Quantitative Value: | <table border="1"> <thead> <tr> <th>Data Metric</th> <th>National Goal</th> <th>Local</th> </tr> </thead> <tbody> <tr> <td>3a - % HPVs entered in ≤ 60 days</td> <td>100%</td> <td>0%</td> </tr> <tr> <td>3b1 - % Compliance Monitoring MDRs entered in ≤ 60 days</td> <td>100%</td> <td>60.0%</td> </tr> <tr> <td>3b2 - % Enforcement MDRs entered in ≤ 60 days</td> <td>100%</td> <td>0%</td> </tr> </tbody> </table> | Data Metric | National Goal | Local | 3a - % HPVs entered in ≤ 60 days | 100% | 0% | 3b1 - % Compliance Monitoring MDRs entered in ≤ 60 days | 100% | 60.0% | 3b2 - % Enforcement MDRs entered in ≤ 60 days | 100% | 0% |
| Data Metric | National Goal | Local | | | | | | | | | | | |
| 3a - % HPVs entered in ≤ 60 days | 100% | 0% | | | | | | | | | | | |
| 3b1 - % Compliance Monitoring MDRs entered in ≤ 60 days | 100% | 60.0% | | | | | | | | | | | |
| 3b2 - % Enforcement MDRs entered in ≤ 60 days | 100% | 0% | | | | | | | | | | | |
| Local Response: | <p>Huntsville’s practice has been to update AFS on a quarterly basis, with updates coinciding with submission of the Consolidated Quarterly Reports under the § 105 Air Program Grant. This provides a convenient and reliable trigger for gathering a range of information from appropriate program staff members. Huntsville must manually enter each data element into AFS. There is no local electronic database that houses compliance inspection information, the results of compliance certification reviews, etc. Consequently, the person responsible for AFS data entry talks to each individual that performs compliance inspections to obtain a list of facilities inspected during the calendar quarter, the compliance status of the facility, whether any stack testing was conducted, whether applicable requirements have changed, etc. Increasing the frequency of data entry from quarterly to bimonthly would impose more of a burden than just the time required to manually access the AFS system and input the data. Rather, it would also encompass the increased time required to assemble the information. Huntsville does not utilize the AFS data base for any purpose whatsoever. With EPA grant funding essentially stagnant over the past 10 years, rising personnel costs have resulted in an erosion of the number of full-time employees devoted to the air program, making it progressively more challenging to meet core program objectives. Diversion of resources to increase the frequency of updating a database that provides no program benefit cannot be justified under these circumstances.</p> | | | | | | | | | | | | |
| Action(s): | <p>Huntsville shall develop and implement a protocol by 12/30/09 that ensures the timely entry of MDRs into AFS. At a minimum, this protocol shall include an increase in the frequency to bi-monthly data entry.</p> | | | | | | | | | | | | |

CAA Element 4 - Completion of Commitments.

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

Finding: All enforcement and compliance commitments in relevant agreements have been met.

| | | | | | | | | | |
|--|--|--------------------|--------------|--|-----------------|------------------------------------|------|--|--|
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | |
| Explanation: | Huntsville met all of its enforcement and compliance monitoring commitments under the FY 2008 Air Planning Agreement with EPA Region 4. Therefore, this element meets SRF program requirements. | | | | | | | | |
| Metric(s) and Quantitative Value: | <table border="0" style="width: 100%;"> <tr> <td style="width: 60%;"><u>File Review</u></td> <td style="text-align: right;"><u>Local</u></td> </tr> <tr> <td>4a - Planned evaluations completed for year of review pursuant to CMS plan</td> <td style="text-align: right;">(see Element 5)</td> </tr> <tr> <td>4b – Planned commitments completed</td> <td style="text-align: right;">100%</td> </tr> <tr> <td colspan="2">(See the Metric 4b table in the appendix for a more detailed analysis)</td> </tr> </table> | <u>File Review</u> | <u>Local</u> | 4a - Planned evaluations completed for year of review pursuant to CMS plan | (see Element 5) | 4b – Planned commitments completed | 100% | (See the Metric 4b table in the appendix for a more detailed analysis) | |
| <u>File Review</u> | <u>Local</u> | | | | | | | | |
| 4a - Planned evaluations completed for year of review pursuant to CMS plan | (see Element 5) | | | | | | | | |
| 4b – Planned commitments completed | 100% | | | | | | | | |
| (See the Metric 4b table in the appendix for a more detailed analysis) | | | | | | | | | |
| Local Response: | None. | | | | | | | | |
| Action(s): | No further action is needed. | | | | | | | | |

| CAA Element 5 – Inspection Coverage | | | | | | | | | | | | | | | | | | | | |
|--|--|----------------|----------------------|--------------|--|-------------------------------------|------|------|--|---|------|------|--|-----------------------------------|---------|------|-------------|--|--|--|
| Degree to which local program completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, local and regional priorities). | | | | | | | | | | | | | | | | | | | | |
| Finding: | Inspection and compliance evaluations provide adequate coverage to address core federal, local, and regional priorities. | | | | | | | | | | | | | | | | | | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | | | | | | | | | | | | |
| Explanation: | <p>Huntsville followed a traditional Compliance Monitoring Strategy (CMS) plan for conducting FCEs at Title V Major and Synthetic Minor 80 (SM80) sources during the FY 2006-2007 CMS cycle. Although the frozen data metric indicates that Huntsville completed 88.9% (8 of 9) of its FCEs at Major sources (Metric 5a1) during the CMS cycle, HQ has advised that the metric is in error, and the result should be 100%. It should be noted that Huntsville completed an FCE at the source in question during FY 2006 and FY 2007. There are therefore no concerns with respect to Huntsville’s coverage of Major sources. Huntsville also inspected 100% of its SM80 sources (Metric 5b1) during the 5-year CMS cycle for SM80s. Huntsville also reviewed 100% of the Title V annual compliance certifications (Metric 5g) during the review period. For all metrics in this element (including a corrected value of 100% for 5a1), Huntsville met the national goal. Therefore, this element meets SRF program requirements.</p> | | | | | | | | | | | | | | | | | | | |
| Metric(s) and Quantitative Value: | <table border="0" style="width: 100%;"> <tr> <td style="width: 40%;"><u>Metrics</u></td> <td style="width: 20%; text-align: center;"><u>National Goal</u></td> <td style="width: 20%; text-align: center;"><u>Local</u></td> <td style="width: 20%;"></td> </tr> <tr> <td>5a1–FCE coverage-Majors (CMS cycle)</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">100%</td> <td></td> </tr> <tr> <td>5a2–FCE coverage-All Majors (last 2 FY)</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">100%</td> <td></td> </tr> <tr> <td>5b1–FCE coverage-SM80 (CMS cycle)</td> <td style="text-align: center;">20-100%</td> <td style="text-align: center;">100%</td> <td style="text-align: center;">(corrected)</td> </tr> </table> | <u>Metrics</u> | <u>National Goal</u> | <u>Local</u> | | 5a1–FCE coverage-Majors (CMS cycle) | 100% | 100% | | 5a2–FCE coverage-All Majors (last 2 FY) | 100% | 100% | | 5b1–FCE coverage-SM80 (CMS cycle) | 20-100% | 100% | (corrected) | | | |
| <u>Metrics</u> | <u>National Goal</u> | <u>Local</u> | | | | | | | | | | | | | | | | | | |
| 5a1–FCE coverage-Majors (CMS cycle) | 100% | 100% | | | | | | | | | | | | | | | | | | |
| 5a2–FCE coverage-All Majors (last 2 FY) | 100% | 100% | | | | | | | | | | | | | | | | | | |
| 5b1–FCE coverage-SM80 (CMS cycle) | 20-100% | 100% | (corrected) | | | | | | | | | | | | | | | | | |

| | | | |
|-----------------|--|------|-------|
| | 5b2–FCE coverage-CMS SM80 (last 5 FY) | 100% | 100% |
| | 5c-FCE/PCE coverage-All SMs (last 5 FY) | NA | 88.9% |
| | 5d-FCE/PCE coverage-other minors (5 FY) | NA | 66.7% |
| | 5g-Review of Self Certifications completed | 100% | 100% |
| Local Response: | None. | | |
| Action(s): | No further action is needed. | | |

CAA Element 6 – Quality of Inspection or Compliance Evaluation Reports

Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations.

| | | | |
|------------------------------------|--|--|--------------|
| Finding: | Compliance evaluation reports properly document observations, are completed in a timely manner, and include an accurate description of observations. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | All of the 13 files reviewed with FCEs conducted during the review period (FY 2008) had documentation in the files to show that they contained all of the elements of the FCE. In addition, all 13 of the files reviewed contained the required Compliance Monitoring Report (CMR) elements, and the files contained sufficient documentation to determine compliance at the facility. Therefore, this element meets SRF program requirements. | | |
| Metric(s) and Quantitative Value: | <u>File Review Metric</u> | | <u>Local</u> |
| | 6a – Number of FCEs reviewed | | 13 |
| | 6b – % FCEs that meet definition | | 100% |
| | 6c – % CMRs sufficient for compliance determination | | 100% |
| Local Response: | None. | | |
| Action(s): | No further action is needed. | | |

CAA Element 7 - Identification of Alleged Violations.

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

| | | | |
|------------------------------------|---|--|--|
| Finding: | In general, compliance determinations are accurately made and promptly reported into AFS based on inspection reports and other compliance monitoring information. | | |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |

| <p>Explanation:</p> | <p>With respect to Huntsville’s compliance determinations, 12 of 13 (92%) of the files reviewed led to an accurate compliance determination in AFS (Metric 7a). However, for the remaining facility, although the source failed a stack test for particulate matter (PM) in July 2007, Huntsville did not issue a notice of violation until after a second failed stack test in February 2008. In addition, Huntsville did not place the source into non-compliance status until July 2008. Huntsville explained that the area surrounding the test port was extremely dirty, and construction work was going on in the vicinity of the test site, so the validity of the first test result was in question. However, when the second test failed, Huntsville concluded that an HPV had occurred. Whereas this is only 1 of 13 compliance determinations made during FY 2008 with an inaccurate compliance determination, EPA is designating this element as an area for local attention to ensure that Huntsville appropriately identifies violations of this nature in the future. Huntsville and EPA have recently reinstated quarterly conference calls to improve communication and enhance the Region’s oversight of Huntsville’s compliance determinations.</p> <p>Huntsville’s result for data metric 7c1 (7.1%) does not meet the national goal. This metric is designed to measure the compliance status reporting of the local program. Huntsville’s ratio (one non-compliant source reported over 14 sources receiving an FCE, stack test, or enforcement action) is significantly lower than the national average (21.2%). As a “review indicator,” the metric is not a final determination that there is a problem, but serves as a flag for the region to review this issue more closely and have dialogue with the local program to understand if there is a problem with under-reporting of violations. Huntsville attributes their low non-compliance rate to frequent contact with their regulated sources. As a small program with 18 Major and SM80 sources, program staff is able to secure and maintain compliance through close oversight utilizing compliance assistance and annual inspections. Based on this analysis, no further action is needed.</p> | | | | | | | | | | | | | | | | | | |
|---|--|---------------------|----------------------|--------------|---|--------|------|--|--------|------|----------------------------|--|--------------|--|--|-----|---|--|----|
| <p>Metric(s) and Quantitative Value:</p> | <table border="1"> <thead> <tr> <th><u>Data Metrics</u></th> <th><u>National Goal</u></th> <th><u>Local</u></th> </tr> </thead> <tbody> <tr> <td>7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY)</td> <td>>10.6%</td> <td>7.1%</td> </tr> <tr> <td>7c2 - % facilities with failed stack test and have noncompliance status (1 FY)</td> <td>>21.8%</td> <td>100%</td> </tr> <tr> <th><u>File Review Metrics</u></th> <td></td> <th><u>Local</u></th> </tr> <tr> <td>7a - % CMRs leading to accurate compliance determination</td> <td></td> <td>92%</td> </tr> <tr> <td>7b - % non-HPVs with timely compliance determination in AFS</td> <td></td> <td>NA</td> </tr> </tbody> </table> | <u>Data Metrics</u> | <u>National Goal</u> | <u>Local</u> | 7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY) | >10.6% | 7.1% | 7c2 - % facilities with failed stack test and have noncompliance status (1 FY) | >21.8% | 100% | <u>File Review Metrics</u> | | <u>Local</u> | 7a - % CMRs leading to accurate compliance determination | | 92% | 7b - % non-HPVs with timely compliance determination in AFS | | NA |
| <u>Data Metrics</u> | <u>National Goal</u> | <u>Local</u> | | | | | | | | | | | | | | | | | |
| 7c1 - % facilities in noncompliance with FCE, stack test, or enforcement (1 FY) | >10.6% | 7.1% | | | | | | | | | | | | | | | | | |
| 7c2 - % facilities with failed stack test and have noncompliance status (1 FY) | >21.8% | 100% | | | | | | | | | | | | | | | | | |
| <u>File Review Metrics</u> | | <u>Local</u> | | | | | | | | | | | | | | | | | |
| 7a - % CMRs leading to accurate compliance determination | | 92% | | | | | | | | | | | | | | | | | |
| 7b - % non-HPVs with timely compliance determination in AFS | | NA | | | | | | | | | | | | | | | | | |
| <p>Local Response:</p> | <p>It seems incongruous to have as an enforcement goal greater than 10.6 % of inspected facilities in non-compliance, the metric EPA uses to assess the effectiveness of an enforcement program under this element of the review. Huntsville’s goal is to have 100 % of the sources within our jurisdiction in full compliance at all times. For those facilities tracked in AFS (major</p> | | | | | | | | | | | | | | | | | | |

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| | <p>sources and synthetic minor sources), Huntsville comes close to achieving that goal. A non-compliance rate of 7.1 % for these facilities, although only a third of the national average, is actually unusually high for Huntsville. If a year other than 2008 had been selected as the focus of EPA’s review, the non-compliance rate for major and synthetic minor sources probably would have been 0 %. Huntsville believes that having a very low non-compliance rate is by far the most important metric for validating the overall effectiveness of an enforcement and compliance assistance program.</p> <p>The apparent low non-compliance rate in Huntsville caused initial concern to EPA, presumably because it raised questions about the accuracy of the metric, whether due to performance of superficial inspections, failure to recognize violations when they were uncovered, or failure to report violations that were recognized. Instead, EPA’s review indicates the inspections are thorough and well-documented, compliance determinations are accurate, and non-compliance is accurately reported, although not always within the 60 day timeframe desired by EPA (reference Element 3). Note that the one “inaccurate” compliance determination noted in the EPA narrative for Element 7 involves the one facility identified as a high priority violator in 2008 by Huntsville (which yielded the higher than normal non-compliance rate of 7.1 % noted above). Thus, this is not actually a question of the accuracy of the determination, but the timing of when the facility status was changed from “compliance” to “non-compliance.” The circumstances surrounding this violation are unusual and are described in some detail in the local response to Element 11.</p> <p>Thus, although initially concerned by the very low apparent rate of non-compliance in Huntsville, EPA’s conclusion is that non-compliance rates actually are far below the national average here. Even though this conclusion is not strongly emphasized in EPA’s report, this is by far the most important result of EPA’s review.</p> |
| Action(s): | No further action is needed. |

| CAA Element 8 - Identification of SNC and HPV | |
|---|--|
| Degree to which the local program accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner. | |
| Finding: | Huntsville accurately identifies high priority violations (HPVs). |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | Huntsville exceeded the national goal for most of the metrics in this element. Huntsville did not identify any HPVs at Synthetic Minor sources during the review year (Metric 8b). However, since the universe is so small (9 SM sources) and the national identification rate is very low (0.4%) this does not represent a significant issue. In addition, whereas the frozen |

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| | dataset indicates a value of 0% for Metric 8e (sources with failed stack test receiving HPV listing), the one source listed in the universe as having a failed stack test <u>did</u> in fact receive HPV listing (as reflected in the production dataset). Therefore, this element meets SRF program requirements. Timeliness of HPV reporting is addressed under Element 3. | | |
| Metric(s) and Quantitative Value: | <u>Data Metrics</u> | <u>National Goal</u> | <u>Local</u> |
| | 8a – HPV discovery rate – Major sources | >4.0% | 11.1% |
| | 8b – HPV discovery rate – SM sources | >0.4% | 0% |
| | 8c – % formal actions with prior HPV – Majors (1 yr) | >37.3% | 100% |
| | 8d – % informal enforcement actions without prior HPV – Majors (1 yr) | <20.1% | 0% |
| | 8e - % sources with failed stack test actions that received HPV listing – Majors and Synthetic Minors | >21.9% | 100% (corrected) |
| | <u>File Review Metrics</u> | | <u>Local</u> |
| | 8f - % accurate HPV determinations | | 100% |
| Local Response: | None. | | |
| Action(s): | No further action is needed. | | |

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| CAA Element 9 - Enforcement Actions Promote Return to Compliance | | |
| Degree to which local enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame. | | |
| Finding: | Enforcement actions include corrective action that will return facilities to compliance in a specific time frame. | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | |
| Explanation: | Huntsville took only one formal enforcement action during FY 2008. The administrative order required the source to conduct another stack test within 60 days, and depending upon the results, perform additional complying actions. The files confirmed that the source performed and passed the stack test, so no additional injunctive relief was required. Therefore, all SRF program requirements were met for this element. | |
| Metric(s) and Quantitative Value: | <u>File Review</u> | <u>Local</u> |
| | 9a – number of enforcement actions reviewed | 1 |
| | 9b - % enforcement actions returning source to compliance | 100% |
| Local Response: | None. | |
| Action(s): | No further action is needed. | |

| CAA Element 10 - Timely and Appropriate Action | | | | | | | | | | | |
|---|--|---------------------|--------------|--------------------------------|----|----------------------------|--------------|--|------|--------------------------------------|------|
| Degree to which a local program takes timely and appropriate enforcement actions in accordance with policy relating to specific media. | | | | | | | | | | | |
| Finding: | Huntsville took timely and appropriate enforcement action in accordance with EPA policy to address HPVs. | | | | | | | | | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | | | | | | | | | |
| Explanation: | All applicable data and file review metrics indicated that Huntsville took timely and appropriate enforcement action through a formal administrative order to resolve HPVs during the review period (Metric 10c). Huntsville had only one HPV action in FY 2008, and this action was resolved through an administrative order in 202 days, meeting EPA’s timeliness criteria 270 days. Therefore, all SRF program requirements were met for this element. | | | | | | | | | | |
| Metric(s) and Quantitative Value: | <table border="0"> <tr> <td><u>Data Metrics</u></td> <td style="text-align: right;"><u>Local</u></td> </tr> <tr> <td>10a - % HPVs not timely (2 FY)</td> <td style="text-align: right;">0%</td> </tr> <tr> <td><u>File Review Metrics</u></td> <td style="text-align: right;"><u>Local</u></td> </tr> <tr> <td>10b - % timely HPV enforcement actions</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>10c - % HPVs appropriately addressed</td> <td style="text-align: right;">100%</td> </tr> </table> | <u>Data Metrics</u> | <u>Local</u> | 10a - % HPVs not timely (2 FY) | 0% | <u>File Review Metrics</u> | <u>Local</u> | 10b - % timely HPV enforcement actions | 100% | 10c - % HPVs appropriately addressed | 100% |
| <u>Data Metrics</u> | <u>Local</u> | | | | | | | | | | |
| 10a - % HPVs not timely (2 FY) | 0% | | | | | | | | | | |
| <u>File Review Metrics</u> | <u>Local</u> | | | | | | | | | | |
| 10b - % timely HPV enforcement actions | 100% | | | | | | | | | | |
| 10c - % HPVs appropriately addressed | 100% | | | | | | | | | | |
| Local Response: | None. | | | | | | | | | | |
| Action(s): | No further action is needed. | | | | | | | | | | |

| CAA Element 11 - Penalty Calculation Method | |
|--|---|
| Degree to which local program documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy. | |
| Finding: | Huntsville does not document penalty calculations in the file, so the degree to which gravity and economic benefit are included could not be determined. |
| Is this finding a(n) (select one): | <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input checked="" type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice |
| Explanation: | A file review of the only enforcement action taken by Huntsville in FY 2008 did not disclose any documentation concerning the calculation of gravity or economic benefit consistent with national policy. Huntsville did consider gravity, indicating that the environmental harm was small, since the emission source that failed the stack test operated only a few hundred hours per year. However, EPA policy states that penalty calculations should be documented to ensure that both gravity and economic benefit were considered and, where appropriate, included in the penalty amount. Although Huntsville considered the gravity of the violation in their penalty |

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| | <p>assessment, these factors were not documented in the file, and no calculation of economic benefit was developed.</p> <p>It should be noted that Huntsville is a very small local program, and the subject enforcement action is the only one taken since 2004. As such, it may not be necessary for EPA to require the development of a comprehensive penalty policy. However, based on the review, EPA has identified this as an area for local improvement. The Region’s recommendation is intended to ensure consistency with national policy.</p> | | | | |
| <p>Metric(s) and Quantitative Value:</p> | <table border="0"> <tr> <td data-bbox="430 520 1242 556"><u>File Review Metric</u></td> <td data-bbox="1242 520 1424 556"><u>Local</u></td> </tr> <tr> <td data-bbox="430 556 1242 632">11a - % penalty calculations that consider & include gravity and economic benefit</td> <td data-bbox="1242 556 1424 632">0%</td> </tr> </table> | <u>File Review Metric</u> | <u>Local</u> | 11a - % penalty calculations that consider & include gravity and economic benefit | 0% |
| <u>File Review Metric</u> | <u>Local</u> | | | | |
| 11a - % penalty calculations that consider & include gravity and economic benefit | 0% | | | | |
| <p>Local Response:</p> | <p>Although Huntsville does not utilize a numeric “penalty matrix” to determine the appropriate amount of a civil penalty, each penalty assessment does consider both the gravity of the violation and the extent to which the violator derived an economic benefit from the failure to comply. These considerations are outlined in the “Findings of Fact” included in the Draft and Final Administrative Order. A number of relevant facts and circumstances surrounding the stack test failure at the facility are described in the Administrative Order assessing the \$10,000 penalty. 1.) A total of ten (10) emission points were tested in July 2007, including each of the larger emission points (four electric arc furnaces) and several smaller material handling sources. All of the measured emissions were well below permitted limits with the exception of a transfer point with a particulate mass emission limit of 0.14 pounds per hour. 2.) There were anomalies in the test results for this emission point, so Huntsville directed the facility to repeat the test. 3.) During the repeat testing in February 2008, there was also evidence of sample probe contamination – this time the result of contractors who were performing ductwork repair generating significant amounts of dust in close proximity to the dust collector stack during the time of the test. 4.) Measured mass particulate emissions at the time of the second test were 0.45 pounds per hour. 5.) The Order also describes other mitigating factors – most notably the compliance history of the facility which includes a large number of previous stack tests, all of which showed actual emissions below permitted limits. In addition, the Order describes exacerbating circumstances, most notably that the facility is a major source of particulate emissions with a second test failure at the same point (both of which were likely caused by poor housekeeping in the area of the test causing sample probe contamination).</p> <p>Thus, the Order provides a thorough discussion of both the economic benefit component – in this case there probably wasn’t one – and the gravity component – the environmental harm was relatively small. Although the documentation in the Order does not include a series of arithmetic computations, it does present the facts that were considered in arriving at the appropriate penalty amount. This approach to penalty assessment,</p> | | | | |

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| | <p>analogous to the thought process of a judge considering the totality of the facts and circumstances during the sentencing phase of a trial, is designed to yield a penalty that is both just and provides an adequate deterrent to future non-compliance. Huntsville firmly believes that this approach is more effective than slavish adherence to a “penalty matrix,” which cannot possibly foresee and accommodate every possible combination of circumstances surrounding an environmental violation.</p> <p>Whether an enforcement program is effective, and the penalties for non-compliance are adequate, is best gauged by examining compliance rates and the extent to which violations recur. As discussed in Element 7, non-compliance rates in Huntsville are far below the national average, indicating the enforcement program is effective. With regard to penalty assessment, Huntsville has never had to initiate an administrative enforcement action with an entity that had been through that process before (we have not yet had a “repeat violator”). That fact suggests our approach to administrative enforcement is achieving its objective.</p> |
| Action(s): | By 12/31/09, Huntsville shall revise their civil penalty calculation methods to include both a gravity component, and where appropriate to the action, economic benefit calculated using the BEN model or another method that is equivalent to national policy. Documentation of these calculations shall also be maintained in the file. |

| CAA Element 12 - Final Penalty Assessment and Collection | | | |
|--|--|----------------------|--------------|
| Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected. | | | |
| Finding: | Huntsville adequately documented the difference between the proposed and final penalty, and the site files documented payment of the penalty. | | |
| Is this finding a(n) (select one): | <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for Local Attention <input type="checkbox"/> Area for Local Improvement – Recommendations Required <input type="checkbox"/> Good Practice | | |
| Explanation: | For the one enforcement action taken in FY 2008, Huntsville documented the initial proposed penalty and the final penalty in the final administrative order, and there was no difference in penalty amounts. In addition, Huntsville maintained documentation that the final penalty was collected. Finally, Metric 12b (100%) indicates Huntsville exceeded the national goal for taking penalty actions at HPV sources. Therefore, all SRF program requirements were met for this element. | | |
| Metric(s) and Quantitative Value: | <u>Data Metrics</u> | <u>National Goal</u> | <u>Local</u> |
| | 12a – Actions with penalties | NA | 1 |
| | 12b - % HPV actions with penalty | ≥ 80% | 100% |
| | <u>File Review Metrics</u> | | <u>Local</u> |
| | 12c - % actions documenting difference between initial & final penalties | | 100% |

| | | |
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| | 12d - % files that document collection of penalty | 100% |
| Local Response: | None. | |
| Action(s): | No further action is needed. | |

V. ELEMENT 13

HDNREM did not provide any additional information for inclusion in this element.

VI. APPENDICES

See the following attachments in the appendices:

- a. Official Data Pull
- b. Preliminary Data Analysis & File Selection
- c. File Review Analysis



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 22 2009

Mr. Daniel E. Shea, Director
Division of Natural Resources
and Environmental Management
City of Huntsville
P.O. Box 308
Huntsville, AL 35804

Dear Mr. Shea:

The Environmental Protection Agency (EPA) Region 4 is initiating a review of the Huntsville Clean Air Act (CAA) enforcement and compliance program using the State Review Framework (SRF) protocol. SRF is a national effort that allows EPA to ensure that state and local CAA agencies meet agreed-upon minimum performance levels in providing environmental and public health protection. The review will include the following elements:

- discussions between EPA and Huntsville program managers and staff,
- examination of data in EPA and Huntsville data systems, and
- the review of selected Huntsville inspection and enforcement files and policies.

As part of the SRF review, EPA and Huntsville have the option of agreeing to examine local programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, and other innovative approaches to achieving compliance. It may also encompass other aspects of the program, including documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome your suggestions for other facets of your compliance programs which you may want us to review. Our evaluation of these portions of the program would be documented under Element 13 of the SRF report.

Our intent is to assist Huntsville in achieving implementation of programs that meet federal standards, and EPA and Huntsville are partners in carrying out the review. If any issues are identified, EPA wants to address them in the most constructive manner possible. Mark Fite of my staff will be the primary EPA Region 4 SRF contact and will lead the review team. It is my understanding that you and Mr. Fite have agreed upon a tentative schedule of June 16-17, 2009, for the SRF file review. Please let us know at your earliest convenience if alternative dates are desired.

I have enclosed with this letter the Official Data Set (ODS) that will be used in the SRF review. Please respond to Mr. Fite by May 15, 2009, with an indication that you agree with the ODS, or if there are discrepancies, please provide that information electronically in the enclosed spreadsheet file by the same date. Mr. Fite can be reached at (404) 562-9740, or by email at

fite.mark@epa.gov, if you have any questions. Please note that minor discrepancies that would not have a substantive impact on the review do not need to be reported. If we do not receive a response from you by the date noted above, EPA will proceed with our preliminary data analysis utilizing the ODS provided with this letter. The preliminary data analysis and file selection for the onsite file review will be sent to you by May 29, 2009.

We look forward to working with you and your staff in this effort. Should you require additional information, or wish to discuss this matter in greater detail, please feel free to contact Mr. Fite directly.

Sincerely,



Kelly Sisario
Acting Associate Director
Office of Environmental Accountability

Enclosure

cc: Carol Kemker, Acting Director, APTMD
Beverly Spagg, Chief, Air & EPCRA Enforcement Branch

OTIS State Review Framework Results

CAA Data for Alabama, LCON 02 (Review Period Ending: FY08)



Metrics Information

Please note: For display purposes, some important explanatory details about the data metrics are not included on the metrics results screen. To see detailed information about each data metric, refer to the data metrics informational spreadsheet or data metrics plain language guide when reviewing the data - all SRF guidance is available on the [OTIS SRF documents page](#). The [data problems page](#) indicates any known data metrics issues.

| Metric | Metric Type | Agency | National Goal | National Average | Production Data (Current Data Refresh Dates) | | | | Frozen Data (Official Frozen FY2008 Refresh Dates) | | | | |
|---|---|--------------------|---------------|------------------|--|-----------|--------------|-------------------|--|-----------|--------------|-------------------|----|
| | | | | | Alabama LCON 02 (Metric=x/y) 0 | Count (x) | Universe (y) | Not Counted (y-x) | Alabama LCON 02 (Metric=x/y) 0 | Count (x) | Universe (y) | Not Counted (y-x) | |
| 1. Data completeness. degree to which the minimum data requirements are complete. | | | | | | | | | | | | | |
| A | Title V Universe: AFS Operating Majors (Current) | Data Quality | State | | | 9 | NA | NA | NA | 9 | NA | NA | NA |
| | Title V Universe: AFS Operating Majors with Air Program Code = V (Current) | Data Quality | State | | | 7 | NA | NA | NA | 7 | NA | NA | NA |
| B | Source Count: Synthetic Minors (Current) | Data Quality | State | | | 9 | NA | NA | NA | 9 | NA | NA | NA |
| | Source Count: NESHAP Minors (Current) | Data Quality | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA |
| | Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current) | Informational Only | State | | | 2 | NA | NA | NA | 2 | NA | NA | NA |
| C | CAA Subprogram Designations: NSPS (Current) | Data Quality | State | | | 3 | NA | NA | NA | 3 | NA | NA | NA |
| | CAA Subprogram Designations: NESHAP (Current) | Data Quality | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA |
| | CAA Subprogram Designations: MACT (Current) | Data Quality | State | | | 3 | NA | NA | NA | 3 | NA | NA | NA |
| | CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005 | Data Quality | State | 100% | 77.6% | 66.7% | 2 | 3 | 1 | 66.7% | 2 | 3 | 1 |
| | CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005 | Data Quality | State | 100% | 34.8% | 0/0 | 0 | 0 | 0 | 0/0 | 0 | 0 | 0 |
| | CAA Subpart Designations: Percent MACT facilities with FCEs | Data Quality | State | 100% | 91.4% | 100.0% | 4 | 4 | 0 | 100.0% | 4 | 4 | 0 |

| | | | | | | | | | | | | | |
|---|--|--------------------|-------|-------|-------|----------|----|----|----|----------|----|----|----|
| | conducted after 10/1/2005 | | | | | | | | | | | | |
| D | Compliance Monitoring: Sources with FCEs (1 FY) | Data Quality | State | | | 14 | NA | NA | NA | 14 | NA | NA | NA |
| | Compliance Monitoring: Number of FCEs (1 FY) | Data Quality | State | | | 14 | NA | NA | NA | 14 | NA | NA | NA |
| | Compliance Monitoring: Number of PCEs (1 FY) | Informational Only | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| E | Historical Non-Compliance Counts (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| F | Informal Enforcement Actions: Number Issued (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| | Informal Enforcement Actions: Number of Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| G | HPV: Number of New Pathways (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| | HPV: Number of New Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| H | HPV Day Zero Pathway Discovery date: Percent DZs with discovery | Data Quality | State | 100% | 50.8% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| | HPV Day Zero Pathway Violating Pollutants: Percent DZs | Data Quality | State | 100% | 66.6% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| | HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s) | Data Quality | State | 100% | 66.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| I | Formal Action: Number Issued (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| | Formal Action: Number of Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| J | Assessed Penalties: Total Dollar Amount (1 FY) | Data Quality | State | | | \$10,000 | NA | NA | NA | \$10,000 | NA | NA | NA |
| K | Major Sources Missing CMS Policy Applicability (Current) | Review Indicator | State | 0 | | 0 | NA | NA | NA | 0 | NA | NA | NA |
| 2. Data accuracy. degree to which the minimum data requirements are accurate. | | | | | | | | | | | | | |
| A | Number of HPVs/Number of NC Sources (1 FY) | Data Quality | State | ≤ 50% | 62.4% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| | Stack Test Results at Federally- | | | | | | | | | | | | |

| | | | | | | | | | | | | | |
|---|---|--|-------|------------|--------|--------|----|----|----|--------|----|----|----|
| | Reportable Sources - % Without Pass/Fail Results (1 FY) | Goal | State | 0% | 1.3% | 0.0% | 0 | 3 | 3 | 0.0% | 0 | 3 | 3 |
| B | Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| 3. Timeliness of data entry. degree to which the minimum data requirements are complete. | | | | | | | | | | | | | |
| A | Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 33.9% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 |
| B | Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 62.4% | 60.0% | 15 | 25 | 10 | 60.0% | 15 | 25 | 10 |
| B | Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 71.9% | 0.0% | 0 | 2 | 2 | 0.0% | 0 | 2 | 2 |
| C | Comparison of Frozen Data Set | Compare the production data results under Element 1 to the frozen data. Please see Plain Language Guide for details. | | | | | | | | | | | |
| 5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations. | | | | | | | | | | | | | |
| A | CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) | Goal | State | 100% | 59.3% | 88.9% | 8 | 9 | 1 | 88.9% | 8 | 9 | 1 |
| A | CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) | Review Indicator | State | 100% | 81.5% | 100.0% | 9 | 9 | 0 | 100.0% | 9 | 9 | 0 |
| B | CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) ¹ | Review Indicator | State | 20% - 100% | 68.7% | 100.0% | 8 | 8 | 0 | 100.0% | 8 | 8 | 0 |
| B | CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) | Informational Only | State | 100% | 100.0% | 100.0% | 6 | 6 | 0 | 100.0% | 6 | 6 | 0 |
| C | CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) | Informational Only | State | | 80.8% | 88.9% | 8 | 9 | 1 | 88.9% | 8 | 9 | 1 |
| D | CAA Minor FCE and Reported PCE Coverage (last 5 FY) | Informational Only | State | | 30.3% | 66.7% | 2 | 3 | 1 | 66.7% | 2 | 3 | 1 |
| E | Number of Sources with Unknown | Review | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA |

| | | | | | | | | | | | | | |
|---|---|--------------------|-------|--------------------|-------|--------|----|----|----|--------|----|----|----|
| | Compliance Status (Current) | Indicator | | | | | | | | | | | |
| F | CAA Stationary Source Investigations (last 5 FY) | Informational Only | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA |
| G | Review of Self-Certifications Completed (1 FY) | Goal | State | 100% | 92.9% | 100.0% | 9 | 9 | 0 | 100.0% | 9 | 9 | 0 |
| 7. Identification of alleged violations. degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information. | | | | | | | | | | | | | |
| C | Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY) | Review Indicator | State | > 1/2 National Avg | 21.2% | 7.1% | 1 | 14 | 13 | 7.1% | 1 | 14 | 13 |
| | Percent facilities that have had a failed stack test and have noncompliance status (1 FY) | Review Indicator | State | > 1/2 National Avg | 43.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| 8. Identification of SNC and HPV. degree to which the state accurately identifies significant noncompliance & high priority violations and enters information into the national system in a timely manner. | | | | | | | | | | | | | |
| A | High Priority Violation Discovery Rate - Per Major Source (1 FY) | Review Indicator | State | > 1/2 National Avg | 7.9% | 11.1% | 1 | 9 | 8 | 11.1% | 1 | 9 | 8 |
| B | High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) | Review Indicator | State | > 1/2 National Avg | 0.7% | 0.0% | 0 | 9 | 9 | 0.0% | 0 | 9 | 9 |
| C | Percent Formal Actions With Prior HPV - Majors (1 FY) | Review Indicator | State | > 1/2 National Avg | 74.6% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |
| D | Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY) | Review Indicator | State | < 1/2 National Avg | 40.1% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 |
| E | Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) | Review Indicator | State | > 1/2 National Avg | 43.8% | 100.0% | 1 | 1 | 0 | 0.0% | 0 | 1 | 1 |
| 10. Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media. | | | | | | | | | | | | | |
| A | Percent HPVs not meeting timeliness goals (2 FY) | Review Indicator | State | | 37.1% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 |
| 12. Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected. | | | | | | | | | | | | | |
| A | No Activity Indicator - Actions with Penalties (1 FY) | Review Indicator | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA |
| B | Percent Actions at HPVs With Penalty (1 FY) | Review Indicator | State | ≥ 80% | 86.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 |

Save Results (a comma delimited text file)

Save Results (Excel file)

Report Generated on 4/14/2009
Data Refresh Dates

Note: EPA Regions must archive the state official data set (first results screen) used for a state review, as these data cannot be reproduced at a later date. SRF data metrics results may change as data are updated in AFS, ICIS, PCS, and RCRAInfo. The above data set may be saved in Excel or comma delimited text format by clicking on the appropriate Save Results link above. Drilldown tables that are linked from this page also cannot be exactly reproduced after a new data refresh occurs if the state has entered or changed data. OECA does not require regions to save the drilldown facility lists in order to document their review; however, if potential problem areas are identified through regional analysis or via state dialogue, the region may want to save selected drilldown lists.

General Notes:

- * Blue-shaded rows denote that the metric was pulled manually.
- * The results counts of some metrics contain enforcement sensitive (ES) records/actions. When using the drilldowns, enforcement sensitive access may be required to view all records/actions included in the results counts.
- * Because of timeout issues, links are not provided to drilldowns that produce more than 1500 records.

Caveats:

- ⁰ State Metric column is generally computed from the value in the Count column (x) divided by the value in the Universe column (y).
- ¹ The current CMS Cycle for SM80s started with FY07; therefore, metric 5B1 includes number of FYs since FY07 through selected FY. Goal percentages expected to increase with selected FY until CMS Cycle completion in FY11, e.g., 20%- FY07, 40% -FY08, etc.

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Huntsville State Review Framework
CAA Preliminary Data Analysis Worksheet

| Metric | Metric Description | Metric Type | Agency | National Goal | National Average | Huntsville Metric Production | Count Production | Universe Production | Not Counted Production | Huntsville Metric Frozen | Count Frozen | Universe Frozen | Not Counted Frozen | Huntsville Discrepancy (Yes/No) | Huntsville Correction | Huntsville Data Source | Discrepancy Explanation | Initial Findings | Evaluation |
|--------|---|--------------------|--------|---------------|------------------|------------------------------|------------------|---------------------|------------------------|--------------------------|--------------|-----------------|--------------------|---------------------------------|-----------------------|------------------------|---|------------------|--------------------|
| A01A1S | Title V Universe: AFS Operating Majors (Current) | Data Quality | State | | | 9 | NA | NA | NA | 9 | NA | NA | NA | | | | | | Appears Acceptable |
| A01A2S | Title V Universe: AFS Operating Majors with Air Program Code = V (Current) | Data Quality | State | | | 7 | NA | NA | NA | 7 | NA | NA | NA | | | | | | Appears Acceptable |
| A01B1S | Source Count: Synthetic Minors (Current) | Data Quality | State | | | 9 | NA | NA | NA | 9 | NA | NA | NA | | | | | | Appears Acceptable |
| A01B2S | Source Count: NESHAP Minors (Current) | Data Quality | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA | | | | | | Appears Acceptable |
| A01B3S | Source Count: Active Minor facilities or otherwise FedRep. not including NESHAP Part 61 (Current) | Informational Only | State | | | 2 | NA | NA | NA | 2 | NA | NA | NA | | | | | | Appears Acceptable |
| A01C1S | CAA Subprogram Designations: NSPS (Current) | Data Quality | State | | | 3 | NA | NA | NA | 3 | NA | NA | NA | | | | | | Appears Acceptable |
| A01C2S | CAA Subprogram Designations: NESHAP (Current) | Data Quality | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA | | | | | | Appears Acceptable |
| A01C3S | CAA Subprogram Designations: MACT (Current) | Data Quality | State | | | 3 | NA | NA | NA | 3 | NA | NA | NA | | | | | | Appears Acceptable |
| A01C4S | CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005 | Data Quality | State | 100% | 77.5% | 66.7% | 2 | 3 | 1 | 66.7% | 2 | 3 | 1 | | | | Huntsville reported NSPS support information for 2 out of 3 sources. Subpart data needs to be entered for the remaining source. | Minor Issue | |
| A01C5S | CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005 | Data Quality | State | 100% | 34.8% | 0/0 | 0 | 0 | 0 | 0/0 | 0 | 0 | 0 | | | | | | Appears Acceptable |
| A01C6S | CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005 | Data Quality | State | 100% | 91.4% | 100.0% | 4 | 4 | 0 | 100.0% | 4 | 4 | 0 | | | | | | Appears Acceptable |
| A01D1S | Compliance Monitoring: Sources with FCEs (1 FY) | Data Quality | State | | | 14 | NA | NA | NA | 14 | NA | NA | NA | | | | | | Appears Acceptable |
| A01D2S | Compliance Monitoring: Number of FCEs (1 FY) | Data Quality | State | | | 14 | NA | NA | NA | 14 | NA | NA | NA | | | | | | Appears Acceptable |
| A01D3S | Compliance Monitoring: Number of FCEs (1 FY) | Informational Only | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01E0S | Historical Non-Compliance Counts (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01F1S | Informal Enforcement Actions: Number issued (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01F2S | Informal Enforcement Actions: Number of Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01G1S | HPV: Number of New Pathways (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01G2S | HPV: Number of New Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01H1S | HPV Day Zero Pathway Discovery date: Percent DZs with discovery | Data Quality | State | 100% | 50.8% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |
| A01H2S | HPV Day Zero Pathway Violating Pollutants: Percent DZs | Data Quality | State | 100% | 66.6% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |

Huntsville State Review Framework
CAA Preliminary Data Analysis Worksheet

| Metric | Metric Description | Metric Type | Agency | National Goal | National Average | Huntsville Metric Production | Count Production | Universe Production | Not Counted Production | Huntsville Metric Frozen | Count Frozen | Universe Frozen | Not Counted Frozen | Huntsville Discrepancy (Yes/No) | Huntsville Correction | Huntsville Data Source | Discrepancy Explanation | Initial Findings | Evaluation |
|--------|--|--------------------|--------|---------------|------------------|------------------------------|------------------|---------------------|------------------------|--------------------------|--------------|-----------------|--------------------|---------------------------------|-----------------------|------------------------|--|-------------------|--------------------|
| A01H3S | HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV | Data Quality | State | 100% | 66.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |
| A01I1S | Formal Action: Number of Violation Type Code(s) issued (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01I2S | Formal Action: Number of Sources (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A01J0S | Assessed Penalties: Total Dollar Amount (1 FY) | Data Quality | State | | | \$10,000 | NA | NA | NA | \$10,000 | NA | NA | NA | | | | | | Appears Acceptable |
| A01K0S | Major Sources Missing CMS Policy Applicability (Current) | Review Indicator | State | 0 | | 0 | NA | NA | NA | 0 | NA | NA | NA | | | | | | Appears Acceptable |
| A02A0S | Number of HPV's/Number of NC Sources (1 FY) | Data Quality | State | <= 50% | 62.4% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | The only violation identified during the review period was an HPV, which could indicate that non-HPV violations are not entered into AFS. | Potential Concern | |
| A02B1S | Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY) | Goal | State | 0% | 1.3% | 0.0% | 0 | 3 | 3 | 0.0% | 0 | 3 | 3 | | | | | | Appears Acceptable |
| A02B2S | Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY) | Data Quality | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A03A0S | Percent HPV's Entered <= 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 33.9% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 | | | | Huntsville only had 1 HPV in review year, but this was not entered into AFS until 126 days after identification. | Potential Concern | |
| A03B1S | Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 62.4% | 60.0% | 15 | 25 | 10 | 60.0% | 15 | 25 | 10 | | | | Huntsville's compliance monitoring MDRs are reported late (>60 days). Huntsville indicates their practice has been to enter data on a quarterly basis, which likely accounts for the late reporting. | Potential Concern | |
| A03B2S | Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) | Goal | State | 100% | 71.9% | 0.0% | 0 | 2 | 2 | 0.0% | 0 | 2 | 2 | | | | Huntsville only had 2 enforcement related actions to report during 2008, and both of these were reported late (>60 days). Again, the practice of quarterly data input may be the cause. | Potential Concern | |
| A05A1S | CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) | Goal | State | 100% | 59.3% | 88.9% | 8 | 9 | 1 | 88.9% | 8 | 9 | 1 | | | | | | Appears Acceptable |
| A05A2S | CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY) | Review Indicator | State | 100% | 81.5% | 100.0% | 9 | 9 | 0 | 100.0% | 9 | 9 | 0 | | | | | | Appears Acceptable |
| A05B1S | CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) | Review Indicator | State | 80% - 100% | 66.7% | 100.0% | 8 | 8 | 0 | 100.0% | 8 | 8 | 0 | | | | | | Appears Acceptable |
| A05B2S | CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) | Informational Only | State | 100% | 100.0% | 100.0% | 6 | 6 | 0 | 100.0% | 6 | 6 | 0 | | | | | | Appears Acceptable |

Huntsville State Review Framework
CAA Preliminary Data Analysis Worksheet

| Metric | Metric Description | Metric Type | Agency | National Goal | National Average | Huntsville Metric Production | Count Production | Universe Production | Not Counted Production | Huntsville Metric Frozen | Count Frozen | Universe Frozen | Not Counted Frozen | Huntsville Discrepancy (Yr/ND) | Huntsville Correction | Huntsville Data Source | Discrepancy Explanation | Initial Findings | Evaluation |
|--------|---|--------------------|--------|---------------|------------------|------------------------------|------------------|---------------------|------------------------|--------------------------|--------------|-----------------|--------------------|--------------------------------|-----------------------|------------------------|--|--------------------|--------------------|
| A05C0S | CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) | Informational Only | State | | 80.8% | 88.9% | 8 | 9 | 1 | 88.9% | 8 | 9 | 1 | | | | | | Appears Acceptable |
| A05D0S | CAA Minor FCE and Reported PCE Coverage (last 5 FY) | Informational Only | State | | 30.3% | 66.7% | 2 | 3 | 1 | 66.7% | 2 | 3 | 1 | | | | | | Appears Acceptable |
| A05E0S | Number of Sources with Unknown Compliance Status (Current) | Review Indicator | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA | | | | | | Appears Acceptable |
| A05F0S | CAA Stationary Source Investigations (last 5 FY) | Informational Only | State | | | 0 | NA | NA | NA | 0 | NA | NA | NA | | | | | | Appears Acceptable |
| A05G0S | Review of Self-Certifications Completed (1 FY) | Goal | State | 100% | 92.9% | 100.0% | 9 | 9 | 0 | 100.0% | 9 | 9 | 0 | | | | | | Appears Acceptable |
| A07C1S | Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY) | Review Indicator | State | 2 National | 21.2% | 7.1% | 1 | 14 | 13 | 7.1% | 1 | 14 | 13 | | | | Huntsville's performance is less than half the national average. Like metric A2, this metric indicates that violations may be under-reported. | Potential Concern | |
| A07C2S | Percent facilities that have had a failed stack test and have noncompliance status (1 FY) | Review Indicator | State | 2 National | 43.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |
| A08A0S | High Priority Violation Discovery Rate - Per Major Source (1 FY) | Review Indicator | State | 2 National | 7.9% | 11.1% | 1 | 9 | 8 | 11.1% | 1 | 9 | 8 | | | | | | Appears Acceptable |
| A08B0S | High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) | Review Indicator | State | 2 National | 0.7% | 0.0% | 0 | 9 | 9 | 0.0% | 0 | 9 | 9 | | | | Huntsville did not identify any HPVs in Synthetic Minor sources during the review year. However, since the universe is so small (9 sources) and the national identification rate is very low, this does not represent a significant issue. | Appears Acceptable | |
| A08C0S | Percent Formal Actions With Prior HPV - Majors (1 FY) | Review Indicator | State | 2 National | 74.6% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |
| A08D0S | Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY) | Review Indicator | State | 2 National | 40.1% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 | | | | | | Appears Acceptable |
| A08E0S | Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) | Review Indicator | State | 2 National | 43.8% | 100.0% | 1 | 1 | 0 | 0.0% | 0 | 1 | 1 | | | | | | Appears Acceptable |
| A10A0S | Percent HPVs not meeting timeliness goals (2 FY) | Review Indicator | State | | 37.1% | 0.0% | 0 | 1 | 1 | 0.0% | 0 | 1 | 1 | | | | | | Appears Acceptable |
| A12A0S | No Activity Indicator - Actions with Penalties (1 FY) | Review Indicator | State | | | 1 | NA | NA | NA | 1 | NA | NA | NA | | | | | | Appears Acceptable |
| A12B0S | Percent Actions at HPVs With Penalty (1 FY) | Review Indicator | State | >= 80% | 86.5% | 100.0% | 1 | 1 | 0 | 100.0% | 1 | 1 | 0 | | | | | | Appears Acceptable |

CAA File Selection
Huntsville State Review Framework

| Facility Name | Program ID | Address | FCE | PCE | Violation | Stack Test Failure | Title V Deviation | HPV | Informal Action | Formal Action | Penalty | Universe | Selection Criteria |
|---|------------|-------------------------------|-----|-----|-----------|--------------------|-------------------|-----|-----------------|---------------|---------|----------|--------------------|
| APAC SOUTHEAST, INC | 010890P129 | 4210 STRINGFIELD ROAD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| BASF CATALYSYS, LLC | 010890P228 | 9800 KELLNER ROAD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| CONTINENTAL AUTOMOTIVE SYSTEMS US, INC | 010890P117 | 100 ELECTRONICS BOULEVARD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MAJR | representative |
| DHS SYSTEMS, LLC | 010890P360 | 5855 ENDEAVOR WAY | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| INTERNATIONAL DIESEL OF ALABAMA, LLC | 010890P305 | 646 JAMES RECORD ROAD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| KOHLER COMPANY | 010890P109 | 176 COCHRAN ROAD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MAJR | representative |
| NATIONAL COPPER & SMELTING | 010890P127 | 3333 STANWOOD BLVD | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MAJR | representative |
| PPG INDUSTRIES | 010890P027 | 1719 HIGHWAY 72 EAST | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| PRATT & WHITNEY AUTOMATION, INC | 010890P344 | 15091 HIGHWAY 20 WEST | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |
| SAINT-GOBAIN INDUSTRIAL CERMICS CORP. | 010890P056 | CAP ADKINS ROAD | 1 | 0 | 1 | 1 | 0 | 1 | 1 | 1 | 10,000 | MAJR | representative |
| TDY INDUSTRIES, INC., DBA ATI ALLDYNE | 010890P016 | 7300 HIGHWAY 20 WEST | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MAJR | representative |
| TOYOTA MOTORS MANUFACTURING OF AL, INC. | 010890P316 | N. HUNTSVILLE INDUSTRIAL PARK | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | MAJR | representative |
| VINTAGE PHARMACEUTICALS, LLC | 010890P342 | 130 VINTAGE DRIVE | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SM80 | representative |

Huntsville SRF CAA File Review Metric Analysis Form

Name of Program: Huntsville, AL

Review Period: FFY 2008

| CAA Metric # | CAA File Review Metric Description: | Metric Value | Evaluation | Initial Findings |
|--------------|--|--------------------|--------------------|--|
| Metric 2c | % of files reviewed where MDR data are accurately reflected in AFS. | 23% | Potential Concern | Three of the 13 files reviewed contained documentation to confirm that all MDRs were reported accurately into AFS. Eight files had one or more inaccurate data items, including zip code, SIC code, facility name, or address. For 1 file, the SM permit showed both VOC and HAPs as regulated pollutants, but AFS only indicated VOCs as regulated. One file indicated applicability of the subpart P PPP MACT (starting on 1/8/08), but this was not shown in AFS. Finally, 1 file indicated a stack test was done that was not reported in AFS. |
| Metric 4a | Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan were completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric. | Appears Acceptable | Appears Acceptable | Huntsville follows a traditional CMS plan, committing to conducting FCEs every 2 years at Title V sources (Majors) and every 5 years at Synthetic Minor sources. Although the Preliminary Data Analysis, indicated the City completed 8 of 9 (89%) of its FCEs at Major sources in the 2 year CMS cycle, EPA has corrected an error in data metric 5a1. Therefore, all 9 Major sources received and FCE during the FY 2006-2007 CMS cycle. The City completed FCE's at 100% of its SM80 sources during the 5 year CMS cycle for SM80s. |
| Metric 4b | Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated. | 100% | Appears Acceptable | See attached table for Metric 4b. |
| Metric 6a | # of files reviewed with FCEs. | 13 | | |
| Metric 6b | % of FCEs that meet the definition of an FCE per the CMS policy. | 100% | Appears Acceptable | 13 of the 13 files reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS. |
| Metric 6c | % of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility. | 100% | Appears Acceptable | 13 of the 13 CMRs reviewed contained all of the CMR requirements listed in the CMS and they contained sufficient documentation to determine compliance at the facility. |
| Metric 7a | % of CMRs or facility files reviewed that led to accurate compliance determinations. | 92% | Appears Acceptable | 12 of the 13 CMRs reviewed led to an accurate compliance determination. |
| Metric 7b | % of non-HPVs reviewed where the compliance determination was timely reported to AFS. | NA | Appears Acceptable | No files reviewed had non-HPV violations. |

Huntsville SRF CAA File Review Metric Analysis Form

Name of Program : Huntsville, AL

Review Period: FFY 2008

| CAA Metric # | CAA File Review Metric Description: | Metric Value | Evaluation | Initial Findings |
|--------------|---|--------------|--------------------|---|
| Metric 8f | % of violations in files reviewed that were accurately determined to be HPV. | 100% | Appears Acceptable | 1 of 1 file reviewed accurately determined HPVs. |
| Metric 9a | # of formal enforcement responses reviewed. | 1 | | |
| Metric 9b | % of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame. | 100% | Appears Acceptable | 1 of the 1 file reviewed documented injunctive relief or complying actions. |
| Metric 10b | % of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days). | 100% | Appears Acceptable | 1 of 1 HPVs reviewed were addressed in a timely manner. |
| Metric 10c | % of enforcement responses for HPVs appropriately addressed. | 100% | Appears Acceptable | 1 of 1 HPVs were appropriately addressed with a formal enforcement response, which was an administrative order which included injunctive relief. The source completed the required actions, and returned to compliance. |
| Metric 11a | % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit. | 0% | Significant Issue | 0 of 1 file reviewed provided documentation of appropriate gravity and economic benefit components of the penalty. |
| Metric 12c | % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. | 100% | Appears Acceptable | 1 of 1 file reviewed provided documentation of the difference between the proposed and final penalty. |
| Metric 12d | % of files that document collection of penalty. | 100% | Appears Acceptable | 1 of 1 file reviewed documented collection of the penalty. |

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| Evaluation Criteria |
| Minor Issues/Appears Acceptable -- No EPA recommendation required. |
| Potential Concern -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis. |
| Significant Issue -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation. |

Huntsville SRF CAA File Review Summary Form for Metric 4b

| Metric 4b | Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated. | | | | |
|---------------------|--|------------------------|--------------------------------|--------------------|---|
| | State Commitment | Accomplishments | Data Source | Evaluation | Initial Findings |
| Commitment 5 | Observe asbestos work practices in progress whenever possible to assess compliance. Special priority will be given to entering a project of a contractor with a work practice violation within the previous 12-month period. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | Conditional Agreement. Huntsville indicated they will enter the enclosure in cases where compliance cannot be determined outside the work envelope. EPA agreed to this. |
| Commitment 6 | Report the following asbestos NESHAP activities at least forth-five (45) days after each fiscal quarter: 1) number of notifications received; 2) number of inspections; 3) non-notifier activity if applicable; 4) number of non-penalty enforcement actions; 5) number of enforcement actions with an assessed penalty; and 6) total penalty assessment. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | |
| Commitment 7 | Maintain a State/Local health and safety plan for asbestos demolition/renovation inspectors. Plan to include medical monitoring, protective equipment, and training as minimum requirements. Alternatively, implement EPA's "Health and Safety Guidelines for EPA Asbestos Inspectors," dated March 1991. These documents will be reviewed by EPA during state program visits. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | |

Huntsville SRF CAA File Review Summary Form for Metric 4b

| Metric 4b | Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated. | | | | | |
|--------------|--|-----------------|--------------------------------|--------------------|--|--|
| | State Commitment | Accomplishments | Data Source | Evaluation | Initial Findings | |
| Commitment 1 | Ensure complete, accurate and timely data consistent with the Compliance Monitoring Strategy, High Priorities Violations Policy, and the AIRS Facility Subsystem (AFS) requirements under the Information Collection Request. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | | |
| Commitment 2 | Resolve violations of any rule for which EPA has delegated authority to the state or local agency for non-major MACT sources and synthetic minor sources. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | | |
| Commitment 3 | Utilize the pollution prevention database (Environ\$en\$e database on the EPA Web page). Use this database to enhance pollution prevention outreach activities during compliance inspections. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | Huntsville indicates this commitment is not applicable to their program, since EPA does not provide funding for P2 activities. EPA agreed to this. | |
| Commitment 4 | Inspect 25% of all NESHAP asbestos demolition/renovation projects. These projects should be selected so that all removal contractors are inspected at least once. Alternatively, lower inspection rates can be negotiated if an effective contractor certification program is in place. Lower inspection rates can also be negotiated if a non-notifier strategy is developed and implemented. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable | Conditional Agreement. Huntsville agreed to inspect 10%, citing that they have an effective contractor certification program in place. EPA agreed to this. | |

Huntsville SRF CAA File Review Summary Form for Metric 4b

| Metric 4b | Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated. | | | |
|---|---|------------------------|--------------------------------|--|
| | State Commitment | Accomplishments | Data Source | Initial Findings |
| Commitment 8 | Recommend (where appropriate) cases and provide support to the EPA Criminal Enforcement Program. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable |
| Commitment 9 | Implement the CAA section 112(r) program for affected sources. Develop a 112(r) work plan with projected priorities including risk management program audits and facility inspections. Compile end-of-year report of accomplishments. Enter accomplishments into AFS as Partial Compliance Evaluations. | Status OK | FY 2008 Air Planning Agreement | Appears Acceptable Huntsville is not delegated responsibility for the 112(r) program. |
| Evaluation Criteria | | | | |
| Minor Issues/Appears Acceptable -- No EPA recommendation required. | | | | |
| Potential Concern -- Not a significant issue. Issues that the state may be able to correct without specific recommendation. May require additional analysis. | | | | |
| Significant Issue -- File review shows a pattern that indicates a significant problem. Will require an EPA Recommendation. | | | | |

**City of Huntsville Division of Natural Resources
and Environmental Management
Final State Review Framework Report – Round 2**

There is not a 508-compliant copy of the appendices for this report. For a PDF copy, please contact Shannon Maher at maher.shannon@epa.gov.