

State Review Framework

Maine Department of Environmental Protection
Round 2 Report
for Federal Fiscal Year 2009

Final September 29, 2011

Table of Contents

- I. EXECUTIVE SUMMARY
- II. BACKGROUND INFORMATION ON STATE PROGRAM AND REVIEW PROCESS
- III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS
- IV. FINDINGS and RECOMMENDATIONS
- V. ELEMENT 13
- VI. APPENDICES:
 - A. STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS
 - B. OFFICIAL DATA PULL
 - C. PDA TRANSMITTAL LETTER
 - D. PDA ANALYSIS CHART
 - E. PDA WORKSHEET
 - F. FILE SELECTION
 - G. FILE REVIEW ANALYSIS
 - H. CORRESPONDENCE

|

I. EXECUTIVE SUMMARY

Major Issues

The SRF review of the Maine Department of Environmental Protection (MEDEP) identified the following major issues:

Each of the Maine DEP programs needs to work to improve their contribution to EPA's national enforcement data sets.

DATA ISSUES

- **CAA - Element 1 – Data Completeness** – The data metrics (preliminary data analysis) and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007. Region 1 identified 5 aspects of data completeness needing improvement.
- **CAA - Element 2 – Data Accuracy** - The file review metrics and the data metrics indicate that there are some data accuracy issues.
- **CAA - Element 3 – Data Timeliness** - The file review metrics and the data metrics indicate that MEDEP was at or below the national average for data timelines metrics.
- **CWA - Element 1 – Data Completeness** – Data system does not contain formal enforcement actions or penalties collected.
- **RCRA - Element 2 – Data Accuracy** - MEDEP needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database.
- **RCRA - Element 3 – Timeliness of Data Entry** - The HWCE needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database, at or near the time that the program makes the SNC determination.

Summary of Programs Reviewed

I. Clean Air Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- **Element 1 – Data Completeness** – The data metrics (preliminary data analysis) and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.
- **Element 2 – Data Accuracy** - The file review metrics and the data metrics indicate that there are some data accuracy issues.
- **CAA - Element 3 – Data Timeliness** - The file review metrics and the data metrics indicate that MEDEP was at or below the national average for data timelines metrics.

- Element 6 – Quality of Inspection or Compliance Evaluation Reports - EPA’s review indicated that the inspection reports or compliance monitoring reports (CMRs), in general, did not contain enough detail to fully document that an FCE inspection was conducted.
- Element 10 – Timely and Appropriate Action - MEDEP did not consistently meet the timeliness guidelines set forth in EPA’s “Timely and Appropriate” guidance document.

The good practices include:

- MEDEP completes inspection reports in a timely manner. (Element 6)
- MEDEP always seeks corrective action (injunctive relief or other complying actions), in its informal and, when necessary, its formal enforcement actions. The enforcement actions include clear and concise descriptions of the injunctive relief necessary and a timeframe for achieving compliance so that facilities with violations return to compliance expeditiously. (Element 9)
- MEDEP is seeking and collecting appropriate penalties, and their enforcement case files thoroughly document their rationale for reducing a penalty. In addition, all applicable enforcement case files reviewed included copies of penalty checks indicating that all penalties had been paid in full. (Element 12)

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

- Completion of Commitments (Element 4),
- Inspection Coverage (Element 5),
- Identification of Violations (Element 7),
- Identification of SNC and HPV (Element 8),
- Penalty Calculation Method (Element 11),

II. Clean Water Act/National Pollutant Discharge Elimination System Program

The problems which necessitate state improvement and require recommendations and actions include:

- Element 1 – Data Completeness – Data system does not contain formal enforcement actions or penalties collected.
- Element 8 - Identification of SNC and HPV - Single event violations are identified but not entered into a data base.
- Element 12 - Final Penalty Assessment and Collection - MEDEP should provide better documentation needed of final penalty amount.

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

- Data Accuracy (Element 2),
- Timeliness of Data Entry (Element 3),
- Completion of Commitments (Element 4),
- Inspection Coverage (Element 5), Quality of Inspection or Compliance Evaluation Reports (Element 6),
- Identification of Alleged Violations - (Element 7)

- Enforcement Actions Promote Return to Compliance (Element 9),
- Timely and Appropriate Action (Element 10),
- Penalty Calculation Method (Element 11),

III. Resource Conservation and Recovery Act Program

The problems which necessitate state improvement and require recommendations and actions include:

- Element 2 – Data Accuracy - MEDEP needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database.
- Element 3 – Timeliness of Data entry - The HWCE needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database, at or near the time that the program makes the SNC determination.
- RCRA Element 11 – Penalty Calculation Method - The HWCE does not include any narrative that further describes how the penalty was developed.
- RCRA - Element 12 - Final Penalty Assessment and Documentation of calculations that led to final penalty assessments was not always done.

The good practices include:

- Element 4 - The Hazardous Waste Compliance and Enforcement Unit (HWCE) completed 108 inspections in FFY09 or 150% of their grant commitments.
- Element 5 - The HWCE consistently plans inspections at the full range of hazardous waste generators in their universe. Maine consistently meets and exceeds their planned inspection commitments.
- Element 6 - HWCE consistently generates timely inspection reports that are of excellent quality and accurately describe and document relevant observations made during the inspection.

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

- Data Completeness (Element 1),
- Identification of Violations (Element 7),
- Identification of SNC and HPV (Element 8),
- Enforcement Actions Promote Return to Compliance (Element 9),
- Timely and Appropriate Action (Element 10)

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

The State Review Framework (SRF) is a program designed to ensure EPA conducts oversight of state and EPA direct implementation compliance and enforcement programs in a nationally consistent and efficient manner. Reviews look at 12 program elements covering data (completeness, timeliness, and quality); inspections (coverage and quality); identification of violations; enforcement actions (appropriateness and timeliness); and penalties (calculation, assessment, and collection).

Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems.

The reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

NOTE: The Background Information provided below was provided by MEDEP. EPA included this information in this report without edits or other changes. While this review examines MEDEP activities in Federal Fiscal Year 2009, this section includes budget and resource information for State Fiscal Year 2009 (July 1, 2008 through June 30, 2009).

I. General Overview of Maine DEP Compliance and Enforcement Programs

The Maine Department of Environmental Protection (“DEP” or “Department”) maintains a central office in Augusta and three regional offices which are located in Portland (Southern Maine), Bangor (Eastern Maine), and Presque Isle (Northern Maine). The Department is comprised of the Bureau of Air Quality (“BAQ”), Bureau of Land and Water Quality (“BLWQ”), Bureau of Remediation and Waste Management (“BRWM”), Office of the Commissioner (“OC”), and Board of Environmental Protection (“BEP”). The compliance and enforcement programs which are subject to review by the U.S. Environmental Protection Agency (“EPA”) reside in the bureaus as well as OC, *e.g.* Air Quality is part of the BAQ; Wastewater Discharge is part of BLWQ; Hazardous Waste Management is part of BRWM; and the Office of Innovation & Assistance (“OI&A”) resides in the OC.

The DEP Director of Procedures and Enforcement (“Enforcement Director”) exists within the OC. This individual engages in general oversight of all compliance and enforcement programs within DEP, but is not functionally responsible for activity management of bureau staff. The day-to-day oversight provided by the Enforcement Director involves case evaluation, procedure evaluation, settlement facilitation, strategic planning, liaison with the Department of the Attorney

General (“AG”), multi-media activity coordination, assistance to staff with matters before the BEP, and general assistance with any licensing, enforcement, or compliance program issue.

The DEP Director of the OI&A also exists within the OC. This individual engages in general oversight and management of all technical assistance and innovative compliance initiatives within DEP.

A. Bureau of Air Quality

In the Bureau of Air Quality, the Compliance Section inspects both licensed and unlicensed sources and conducts complaint investigations. Unlicensed sources are required to be in compliance with air quality statutes and regulations.

The Compliance Section also provides technical assistance, pollution prevention assistance and engages in education and outreach activities. The Compliance Section is composed of seven (7) FTE inspector positions and a compliance coordinator. Two (2) inspectors are located in each regional office, with the exception of the Northern Regional Office which has one full time inspector. The compliance coordinator is located in the Augusta Office.

The enforcement/stack testing section consists of three (3) FTEs, an Environmental Engineering Specialist, an Assistant Environmental Engineer and a Senior Environmental Engineer, all located in the Augusta Office. All enforcement is done by the section. The enforcement section reports directly to the BAQ’s Director of Licensing and Enforcement.

B. Bureau of Remediation and Waste Management, Oil and Hazardous Waste Facilities Regulation Program

The Hazardous Waste compliance and enforcement programs primarily reside within the DEP’s Division of Oil and Hazardous Waste Facilities Regulation in the BRWM. Hazardous waste enforcement staff are responsible for conducting compliance inspections, complaint investigations, formal enforcement actions, site investigation and remediation project oversight related to enforcement actions, education and outreach activities (*e.g.* compliance assistance and advisory opinions; generator seminars and regulatory presentations; compliance guidance handbook and fact sheet development and review; environmental leadership program reviews; Small Business Technical Assistance Program (“SBTAP”) reviews), data management activities (*e.g.* manifest reviews; data entry and quality control reviews; administration, assistance and compilations of annual reports for generators and facilities; biennial report to legislature), hazardous waste and waste oil transporter inspection, enforcement, and administration activities (*e.g.* transporter quarterly report reviews and fee audits), universal waste management inspection, enforcement, and administration activities (*e.g.* universal waste quarterly report audits), and other regulatory support activities (*e.g.* report assistance; policy development and implementation; hazardous waste and universal waste initiatives; rule-making reviews for hazardous matter, hazardous waste, universal waste, and waste oil; strategic planning and federal grant administration).

The current staff includes a unit manager, four (4) oil and hazardous materials specialists (inspectors responsible for inspections and related enforcement activities), one (1) environmental specialist (inspector responsible for inspections and related enforcement activities), and two (2) environmental specialists (half-time responsible for inspections and related enforcement activities and half-time responsible for data management, administration and related enforcement activities for the hazardous waste and waste oil transporter program and universal waste

program). The unit manager, two (2) full-time enforcement inspectors, and one (1) of the half-time enforcement/half-time data management/regulatory administration positions are located in the Augusta Office. Two (2) full-time enforcement inspectors are located in the Southern Maine Regional Office in Portland. One (1) full-time enforcement inspector and one (1) of the half-time enforcement/half-time data management/regulatory administration positions are located in the Eastern Maine Regional Office in Bangor. The unit reports to the division director located in Augusta.

C. Bureau of Land and Water Quality, Wastewater

Maine's Wastewater Discharge program is managed by the Division of Water Quality Management in the BLWQ. The program includes Compliance/Technical Assistance (CTA) and Enforcement sections. The compliance staff of the CTA Section (14 FTEs) conducts all facility inspections, renders preliminary technical assistance, and handles initial compliance contacts and most routine communications with treatment facilities on regulatory and performance issues. These contacts typically include informal efforts (*e.g.* plant inspections, telephone contacts, troubleshooting) to address minor violations or conditions that may lead to violations if left unresolved. The Enforcement Unit (4 FTEs, 1 currently vacant) addresses situations where enforcement actions are necessary to resolve violations and implement compliance schedules. The two sections also respond to citizen complaints received by the division and conduct focused investigations to identify and remove sanitary waste discharge sources, especially in waters where shell fishing or other high priority uses are impaired. Complaints arising from non-point source discharges, forestry activities, and other land use issues are addressed by the BLWQ's Division of Land Resource Regulation. The Compliance and Enforcement staff is assisted by the Technical Assistance staff of the CTA Section (3 FTEs). In addition to the approximately 400 traditional NPDES/point source discharges, the program regulates approximately 1300 Over Board Discharges ("OBDs"), consisting of treated sanitary wastes from residential and commercial sources.

II. Legal Authorities

DEP Inspection Authority. Employees and agents of the DEP may enter any property at reasonable hours and enter any building with the consent of the property owner, occupant or agent, or pursuant to an administrative search warrant, in order to inspect the property or structure, take samples and conduct tests as appropriate to determine compliance with any laws administered by the DEP or the terms and conditions of any order, regulation, license, permit, approval or decision of the commissioner or of the board. *See* 38 M.R.S.A. § 347-C.

DEP Enforcement Authority - General. The DEP Commissioner may initiate an enforcement action when it appears that there is or has been a violation of environmental requirements. 38 M.R.S.A. § 347-A(1)(A). The statutorily authorized actions which may be initiated are: (1) negotiation of an administrative consent agreement; (2) referral to the Office of the Attorney General for civil or criminal prosecution; (3) scheduling and holding an administrative enforcement hearing; or (4) initiating a civil action in the Maine district court under Maine Rule of Civil Procedure 80K. *See generally* 38 M.R.S.A. § 347-A(1)(A). Parties to a Rule 80K prosecution may request mediation pursuant to 38 M.R.S.A. § 347-A(4)(E).

Before initiating any of these activities as a civil enforcement matter, the Commissioner is authorized and required to send the alleged violator a Notice of Violation ("NOV"). 38

M.R.S.A. § 347-A(1)(B). The Commissioner is not required to send an NOV prior to issuing an emergency order, referring an alleged violation to the AG for criminal prosecution, or in a matter requiring an immediate enforcement action. *Id.*

DEP Enforcement Hearing Authority. The BEP or Commissioner may conduct a hearing for the purpose of accepting documentary and testimonial evidence and determining the existence of alleged violations. After a hearing, or in the event the alleged violator fails to appear, the BEP or Commissioner makes findings of fact based on the record and, if a violation is found to exist, issues an order aimed at ending the violation. The person to whom an order is directed must immediately comply with the terms of that order. 38 M.R.S.A. § 347-A(2).

Commissioner's Emergency Order Authority. Whenever an investigation reveals a violation which is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the Commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. The person to whom the order is directed must immediately comply. The order may be appealed to the BEP for a hearing on the order, which must be held within 48 hours after receipt of application. 38 M.R.S.A. § 347-A(3).

Restoration Authority. Maine courts may require restoration of an area affected by any action or inaction found to be in violation of environmental requirements to its condition prior to the violation, or as near thereto as possible, unless restoration activities will cause a threat or hazard to public health or safety; substantial environmental damage; or, a substantial injustice. 38 M.R.S.A. § 348(2).

AG Enforcement Authority - General. Violations of law and enforcement of licensing orders of the Commissioner or BEP may be enforced in Maine courts by the AG through injunctive proceedings, and civil or criminal actions. 38 M.R.S.A. §§ 347-A(5), 348(1).

Criminal Penalty Authority. Maine law establishes that the intentional, knowing, reckless, or criminally negligent violation of laws or orders administered by the DEP, and the disposal of more than 500 pounds or 100 cubic feet of "litter", are Class E crimes punishable by fines not less than \$2,500 nor more than \$25,000 for each day the violation, except that the minimum penalty for knowing violations is \$5,000 for each day of violation. 38 M.R.S.A. § 349(1).

Falsification and Tampering. A person may not knowingly make false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained by any provision of law administered by the DEP, or by any order, rule, license, permit, approval or decision of the DEP, or who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule, license, permit, approval or decision of the board or commissioner or who fails to comply with any information submittal required by the commissioner pursuant to an groundwater oil discharge clean-up, or uncontrolled hazardous waste site clean-up. 38 M.R.S.A. § 349(3).

Civil Penalty Authority. Maine Law subjects violators to civil monetary penalties for violating environmental requirements of not less than \$100 nor more than \$10,000 for each day that violation exists or, if the violation relates to hazardous waste, of not more than \$25,000 for each day the violation exists. 38 M.R.S.A. § 349(1). Monetary penalties may be obtained through an administrative consent agreement or court action. The Department does not have unilateral penalty authority. The maximum civil penalty for non-hazardous violations may be increased to

\$25,000 for each day a violation exists if it is shown that the same party violated the same law within the preceding five (5) years. 38 M.R.S.A. § 349(6). Also, if the daily economic benefits of non-compliance exceed per-day maximum penalties, a penalty may then be assessed which does not exceed twice the economic benefit resulting from the violation. 38 M.R.S.A. § 349(8). The Commissioner may exempt from civil penalties certain reported air emissions or wastewater discharges in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. 38 M.R.S.A. § 349(9). A party performing a Supplemental Environmental Project (“SEP”) may mitigate the final monetary penalty paid by up to 80% of the assessed amount of the gravity penalty. 38 M.R.S.A. § 349(2-A). SEPs cannot be used to offset the economic benefit portion of a penalty.

III. Compliance and Enforcement Tools

DEP uses a variety of methods to evaluate compliance with Maine’s environmental laws, including on-site inspections, periodic self-monitoring and reporting, and record reviews. In all cases, these evaluations are used to monitor compliance and document findings in a way that supports any subsequent necessary action. DEP compliance staff must document all compliance evaluations. This documentation may be in the form of memoranda, facility-related compliance data, or as a trip report when on-site evaluations are performed. The discovery of non-compliance during an on-site inspection should be documented with additional means, for example facility records, sampling and analysis, photographs or video recordings, or a combination of all these. Inspections documenting situations that appear to require corrective action should typically have exit interviews conducted and written documentation of the findings left with or sent to a responsible official.

Education and Outreach. The DEP offers education and outreach (“E&O”) as a proactive means of helping the public understand, support, and comply with environmental laws, and to teach responsible environmental stewardship. Education and outreach is the responsibility of all DEP staff on a daily basis and is the cornerstone for minimizing adverse environmental impacts and preventing environmental violations. It ranges from holding seminars that provide wide segments of the population with general information to targeting particular facilities, locations, ecosystems, or business sectors. Education and outreach is an effective tool for educating the public about new regulatory requirements or abating small, commonly observed violations. When a violation is discovered, education on how to comply and prevent recurrence is often an integral part of resolving that violation.

Voluntary Compliance. An underlying principle of environmental law assumes societal acceptance by the majority of citizens and therefore voluntary compliance. Likewise, the DEP expects environmental requirements to be complied with voluntarily. Entities must be proactive in their compliance efforts by evaluating plans and operations to determine whether environmental requirements apply. The DEP has established a *Small Business Compliance Incentives Policy* to further encourage voluntary compliance and beyond compliance activities by providing incentives to entities that approach the DEP seeking regulatory and technical assistance. The DEP views an entity’s voluntary compliance actions and overall environmental performance record when evaluating good-faith efforts to comply with environmental requirements.

Technical Assistance. Technical assistance is targeted education and outreach where the expertise of the DEP is used to help solve a particular environmental problem at a particular location. Technical assistance may be provided informally during an inspection or in a telephone call, or more formally through one of the DEP's technical assistance programs and designated technical assistance staff. Regulatory assistance, *i.e.* helping entities to understand regulatory requirements, is also a primary focus of the DEP and available as part of the Department's daily activities. DEP staff providing technical assistance has no authority to "waive" violations, and may not advocate actions inconsistent with applicable laws and standards.

Licensing. The DEP issues customized licenses that ensure environmental protection by addressing the unique operations existing at a regulated entity's site and facility. License provisions are clearly and concisely written to promote compliance and expedite any future compliance efforts. The licensee is responsible for understanding all provisions contained in their license. In this regard, the DEP provides draft licenses to applicants and expects potential licensees to determine the feasibility of conforming with all provisions contained in their license prior to accepting that license from the DEP. In addition, the licensee is responsible for ongoing compliance evaluations and immediately informing the DEP of any compliance problems. The DEP views immediate disclosure of compliance problems and immediate work to permanently resolve an issue as good-faith efforts that will be considered in determining an appropriate response. Failure to consistently evaluate compliance with license provisions and immediately disclose and correct license compliance problems increases the likelihood and severity of an enforcement response.

Enforcement. Regular inspections and enforcement of environmental requirements are key elements in gaining compliance. While a variety of tools exist for preventing and resolving compliance problems, the DEP may pursue formal, written, and legally binding resolutions to environmental violations where corrective action and/or penalties are appropriate. The DEP will select an appropriate course of action for enforcing Maine's environmental requirements based upon the facts of a case and the Department's *Non-Compliance Response Guidance*. As a result, the DEP may use any one tool, or combination of tools, as appropriate to achieve compliance with environmental requirements. The DEP's preference in resolving civil enforcement actions is to reach agreements as quickly as possible that: remediate environmental damage; restore natural resources to appropriate conditions; impose penalties that capture any economic benefit gained by a violator; and deter similar actions in the future. The tools employed to compel compliance include:

Letter of Warning. The DEP typically corresponds in writing with entities upon discovering non-compliance with environmental requirements. A Letter of Warning ("LOW") is sent to provide regulated parties with information regarding an alleged violation where the matter is relatively minor and further civil enforcement action is not anticipated if the violation is promptly corrected. A LOW identifies the violation(s) and may contain a schedule for coming into compliance. Where a LOW has been sent, the DEP views prompt correction and avoidance of repeat violations as essential. A history of LOWs, or a LOW that is not followed with prompt corrective action, increases the likelihood that additional enforcement actions will be pursued.

Notice of Violation. The DEP uses a NOV where a significant¹ violation exists and the probability of future civil enforcement action is substantial. Maine law requires the DEP to issue a NOV prior to initiating a civil action that will include enforceable compliance schedules and penalties. A NOV will at a minimum describe the alleged violation, cite to statutory, regulatory, permit, and license provisions alleged to have been violated, and provide a deadline for performing corrective action and response to the notice. Performing the corrective action identified in a NOV does not preclude additional civil enforcement actions or additional remedial work. The DEP views prompt corrective action where a NOV has been sent and avoidance of repeat violations as essential.

Administrative Consent Agreements. The DEP pursues voluntary agreements for corrective action and/or penalties to resolve environmental violations. The DEP provides Administrative Consent Agreements (“ACAs”) to alleged violators in order to achieve administrative settlement rather than pursue an action in court. The DEP negotiates, and AG, BEP and violators enter into, ACAs to achieve final resolution of pending civil enforcement actions. An ACA is a legally binding contract between a violator and the State of Maine that prescribes appropriate penalties and corrective actions. An ACA offers resolution without the time and expense of a court action.

80K Actions. Maine Law authorizes certified DEP staff to pursue violations of environmental requirements in District Court under Maine Rule of Civil Procedure 80K with the prior approval of the Office of the Attorney General. These court actions are typically filed on behalf of the DEP where administrative settlement efforts have failed. The goals of pursuing civil enforcement actions under Rule 80K are to efficiently and effectively resolve violations without the relatively significant expense and inefficiency of pursuing actions in Superior Court.

Mediation. Maine law authorizes parties to a Rule 80K prosecution to request mediation. 38 M.R.S.A. § 347-A(4)(E). To further our efforts in reaching consensual resolution of civil enforcement actions in the most efficient and effective manner, the DEP requests mediation in 80K cases in each appropriate circumstance.

Supplemental Environmental Projects. Pursuant to authority provided by Maine statute, the DEP and AG may consent to a violator performing an environmentally beneficial project, or so-called Supplemental Environmental Project (“SEP”), as part of resolving an enforcement action. 38 M.R.S.A. § 349(2-A). While Maine’s SEP statute is conceptually similar to EPA’s policy on supplemental environmental projects, some of the requirements and considerations in the statute differ from the EPA policy. SEPs are not a tool for bringing a violator into compliance. Projects may be performed to mitigate up to 80% of the total penalty amount, excluding economic benefit.

Emergency orders. Whenever an investigation reveals a violation which is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. The person to whom the order is directed must immediately comply. The order may not be appealed to the Superior Court but the person may apply to the BEP for a hearing on the order which shall be held by the board within 48 hours after receipt of application.

¹ The term “significant” is used here with in common understanding and is not intended as a reference to the term “significant non-complier” used by EPA.

Enforcement Hearings. The Commissioner may conduct a hearing for the purpose of accepting documentary and testimonial evidence regarding alleged violations. After a hearing, or in the event the alleged violator fails to appear, the BEP or Commissioner makes findings of fact based on the record and, if a violation is found to exist, issues an order aimed at ending the violation. The person to whom an order is directed must immediately comply with the terms of that order.

Case Referral to the Department of the Attorney General. The Office of the Attorney General is constitutionally responsible for acting as the DEP's legal counsel and is the chief law enforcement agency for the State of Maine. The DEP refers civil enforcement actions to the AG when administrative settlement can't be reached and serious violations exist, immediate injunctive relief is sought, and/or significant legal issues are in dispute. Criminal enforcement actions are automatically referred to the AG for pursuit in an appropriate judicial forum.

Enforcement by Federal, State, and Local Entities. Independent authority to enforce certain environmental laws exists in federal, state, and local authorities, including the AG. The DEP works closely with these entities and, where appropriate, pursues joint enforcement actions. Every effort is made to coordinate enforcement actions among federal, state, and local entities.

IV. Compliance and Enforcement Process

The first step in addressing circumstances demonstrating non-compliance is a full investigation of the matter by appropriate program staff (usually the inspector discovering non-compliance). This investigation involves, at a minimum, gathering background information on the violation, its causes, the impacts, and potential corrective actions from file reviews, discussions with other staff members, and direct communication with the regulated entity. Most programs conduct periodic meetings to discuss broadly discovered circumstances of non-compliance. The DEP Enforcement Director often attends each program's periodic non-compliance review session, and always reviews meeting minutes, in order to provide multi-media oversight of response decisions. In addition to considerations based on DEP policy, programs weigh competing priorities, precedent values, and other program responsibilities when decisions on specific activities are ultimately made.

All DEP programs follow the principles captured in the Department-wide *Non-Compliance Response Guidance*, as implemented in program-specific policies based on the same principles when evaluating further actions after discovering non-compliance. Programs also consider the principles contained in the BEP's 1990 *Enforcement Guidance Document: Administrative Consent Agreement Policy*. While the compliance tool, or combination of tools, that may be applied in response to a violation varies according to a number of factors, the DEP's goals are always to gain compliance as quickly as possible, protect the environment, and treat each violator in an evenhanded manner. The following questions and analysis provide the general guidance DEP follows in determining an appropriate response to a violation. These considerations are cumulative and not applied in isolation.

What is the environmental impact/significance of the violation? When the area impacted by a violation is large or particularly sensitive, the likelihood of an enforcement response is high and the severity of that response increases. Likewise, where actual environmental damage exists or the violation has continued for an extended period of time, the likelihood of an enforcement response is high and the severity of that response increases. Technical paperwork violations, so-called "paper violations" (e.g. failure to submit and maintain required records, monitor

downtime, or renew a license) are significant to the extent they affect the DEP's ability to determine whether a company has been in compliance, the level of non-compliance, or the extent and length of an adverse environmental impact resulting from non-compliance. Failure to comply with other requirements, such as training, will be evaluated on the potential effect the failure can have on a facility's ability to maintain compliance. Other factors related to environmental impacts and violation significance that will determine the nature of an enforcement response include: whether the activity which caused the violation was inherently dangerous or the pollutants involved are hazardous; how far beyond standards or license limits the activity was; the number of violations involved; and whether there were any potential public health risks or environmental risks posed by the violation.

Under what circumstances were the violations discovered? Where the DEP discovers non-compliance during an announced or unannounced compliance inspection or as a result of investigating complaints from the public, the likelihood of an enforcement response is significantly greater than where a party voluntarily requests compliance or technical assistance, or where the results of an internal or third party compliance assessment are voluntarily reported. Indeed, the DEP has established programs under the Department's *Small Business Compliance Incentives Policy* which protects entities that voluntarily approach the Department seeking regulatory and technical assistance from civil penalties, so long as any violations discovered for the first time are corrected within a prescribed time period. A demonstrated commitment to voluntary compliance and a strong overall environmental compliance record diminish the likelihood or severity of an enforcement response. The DEP views immediate disclosure of compliance problems and immediate work to permanently resolve issues as good-faith efforts that will be considered in determining an appropriate compliance response. The failure to consistently evaluate compliance with regulatory provisions and immediately disclose and correct compliance problems increases the likelihood and severity of an enforcement response.

What were the causes and circumstances of the violations? While the DEP intends to be proactive in providing education and outreach, the Department expects regulated parties to know and comply with legal requirements. In this regard, violators that knew or should have known legal requirements or that a violation was reasonably foreseeable are more likely to face an enforcement response from the DEP. For example, if a person ignores relevant training or technical assistance, is in a business heavily and directly regulated by the DEP (e.g. contractors, large industrial facility operators, businesses involved with hazardous waste, landfill operators), has a history of similar compliance problems, or it is otherwise evident that they were in a position to avoid the violation, the likelihood of an enforcement response is high and the severity of that response increases, regardless of environmental impact. However, if a violation is inadvertent, involves a recently adopted regulatory requirement, is not part of a pattern or history of non-compliance, could not have been prevented, or is mitigated and reported immediately upon discovery, then the likelihood of an enforcement response is reduced. A demonstrated commitment to voluntary compliance and a strong overall environmental compliance record also diminish the likelihood or severity of an enforcement response.

What action was taken once there was awareness of a violation? As with all laws, environmental laws rely heavily on voluntary compliance and self-reporting. If a violation is reported immediately, environmental damage is restored immediately, and corrective action is taken immediately, the likelihood or severity of an enforcement response diminishes. Likewise, the quality of those actions, whether they were taken before or after DEP involvement, whether

or not they truly cured any immediate problem, and/or were designed to prevent future problems are all factors that determine a compliance response. A violator that permanently removes the potential for recurrence will be considered to have demonstrated a greater willingness to comply than a violator applying a temporary fix on a problem that resulted in non-compliance.

Is there a financial gain associated with the violation? The DEP will examine whether there was any economic benefit (e.g. avoided disposal costs, cost of required pollution control equipment, license fees) that accrued to the violator as a result of the violation. In those instances where a significant economic benefit is associated with non-compliance, the likelihood that the DEP will pursue an enforcement response to assess penalties that at least recover any economic benefit is high. Recovery of an economic benefit “levels the playing field” between those companies or individuals that are in compliance and those that are out of compliance.

What is the regulated party’s overall environmental record? The DEP will consider a violator’s environmental record in determining the nature of a compliance or enforcement response. This consideration will include aggregate performance in all media programs as well as any trend toward or away from overall compliance.

B. PROCESS FOR SRF REVIEW

Describe key steps in the reviews of each media program, including:

- **Review period:** Federal Fiscal Year 2009 – October 1, 2008 – September 30, 2009
- **Key dates and Communication with the state**
MEDEP hosted a kick-off meeting to begin the review on May 29, 2010 at its Headquarters in Augusta, Maine. The MEDEP Enforcement Coordinator and managers and senior staff from Region 1 and MEDEP participated in the meeting. After the kick-off meeting, state and federal staff worked out their own schedules for data examinations, file reviews and meetings. All file reviews took place at MEDEP’s Augusta office. File reviews began immediately after the kick-off meeting.

Region 1’s SRF Coordinator and MEDEP’s Director of Procedures and Enforcement discussed procedural and substantive aspects of the review by phone. EPA program reviewers worked out their own schedules with their state counterparts for data evaluation, file reviews and meetings. These activities occurred during meetings at Maine DEP and by phone. The SRF meetings and calls often took place during regularly scheduled state oversight meetings and calls.

File reviews and SRF site visits mostly occurred in summer 2010. EPA reviewers drafted preliminary findings in fall 2010 and shared them informally with their MEDEP program counterparts, also, often during regularly scheduled program oversight meetings and calls. Throughout this process EPA and MEDEP revised and refined findings and recommendations. This included steps by MEDEP to address and resolve some issues identified by EPA. In these instances, the finding may have been designated an area for State Attention rather than an area for State Action.

EPA reviewers submitted draft findings and supporting material to the Region 1 SRF Coordinator in May/June, 2011.

- **List state and regional lead contacts for review.**

Maine Department of Environmental Protection

- o Pete Carney, Director, Office of Procedures and Enforcement
- o Kurt Tidd, Enforcement Unit Manager, Bureau of Air Quality
- o Brian Kavanah, Director, Division of Water Quality Management, Bureau of Land and Water Quality
- o Michael Hudson, Hazardous Waste Enforcement Unit Manager, Bureau of Remediation and Waste Management

EPA Region 1

- o Sam Silverman, Deputy Director, Office of Environmental Stewardship
- o Mark Mahoney, SRF Coordinator
- o Drew Meyer - RCRA
- o Doug Koopman Clean Water Act
- o Tom McCusker Clean Air Act

III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of MEDEP's compliance and enforcement programs, Region 1 and MEDEP identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

#	Media	Element	Due Date	Status	Finding
E2	CAA	Violations ID'ed Appropriately	1/1/2010	Working	Inspection Report Quality
E6	CWA	Timely & Appropriate Actions	9/30/2010	Long Term Resolution	Obtain Administrative Penalty Authority
E10	CWA	Data Timely	12/31/2007	Working	Improve Data Entry

IV. OVERALL FINDINGS AND RECOMMENDATIONS

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

Finding	Description
Good Practices	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented exceptionally well and which the State is expected to maintain at a high level of performance. Additionally, the report may single out specific innovative and noteworthy activities, process, or policies that have the potential to be replicated by other States and that can be highlighted as a practice for other states to emulate. No further action is required by either EPA or the State.
Meets SRF Program Requirements	This indicates that no issues were identified under this Element.
Areas for State* Attention *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the SRF data metrics and/or the file reviews show are being implemented with minor deficiencies that the State needs to pay attention to 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.
Areas for State * Improvement – Recommendations Required *Or, EPA Region’s attention where program is directly implemented.	This describes activities, processes, or policies that the metrics and/or the file reviews show are being implemented by the state that have significant problems that need to be addressed and that require follow-up EPA oversight. This can describe a situation where a state is implementing either EPA or State policy in a manner requiring EPA attention. For example, these would be areas where the metrics indicate that the State is not meeting its commitments, there is a pattern of incorrect implementation in updating compliance data in the data systems, there are incomplete or incorrect inspection reports, and/or there is ineffective enforcement response. These would be significant issues and not merely random occurrences. Recommendations are required for these problems that will have well defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Clean Air Act

(EPA drafted the MEDEP Air Enforcement findings to provide significant detail in order to enhance communication and alignment between MEDEP and EPA.)

CAA Findings

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.

1.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The data metrics (preliminary data analysis) and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The data metrics and, to a lesser extent, the file review metrics indicate that many FCE inspections (FCEs) conducted by MEDEP at Title V, Synthetic Minor 80 percent (SM80s), New Source Performance Standard (NSPS) and Maximum Achievable Control Technology (MACT) sources were either not reported in EPA's Air Facility Subsystem (AFS) database or were not properly extracted from AFS to EPA's On-line Tracking Information System (OTIS) State Review Framework (SRF) Results database that is used for compiling data for the SRF review. This problem appears to be the result of a combination of things. First, MEDEP's extraction software that uploads data from MEDEP's database (AECTS) through the Universal Interface (UI) to AFS is still encountering problems. An email from MEDEP to EPA dated November 25, 2009 reported that "a glitch was found in the MEDEP database that prevented some data from being uploaded." Problems MEDEP was encountering with its extraction software were identified in the last Maine SRF review and a recommendation was made to MEDEP by EPA at that time to resolve this problem. MEDEP reported to EPA that the problem had been resolved and the recommendation tracker was updated to indicate that the problem was resolved. In the meantime, it appears further extraction software problems have been experienced. Second, MEDEP reported it was experiencing problems with the older version of the UI that was in place during FFY 2009. This UI problem prevented additional MDRs data from being uploaded from AECTS to AFS. An email from MEDEP to EPA dated February 5, 2010, reported that a newer version of the UI would be installed within the next two weeks. MEDEP believes the new version of the UI has resolved the data issues it was experiencing with the older version of the UI used in FFY 2009. Third, MEDEP and EPA believe that there are some logic issues that prevent data from being extracted from AFS to OTIS. For instance, compliance inspections that have been entered into AFS but have not been properly identified by MACT and/or NSPS subparts do not appear to be captured in the OTIS SRF Results database. EPA's investigation into the fourteen Title V facilities reported in EPA's OTIS SRF Results database as having not had an FCE in the most recent two years revealed that three of the facilities (Red Shield Environmental of Old Town, ME, S.D. Warren Co. of Skowhegan, ME, and Domtar Corp. of Baileyville, ME) are mega sites on a three year CMS frequency that had their last FCEs in FFY 2007. Therefore, these three facilities are not required to be inspected again until FFY 2010 (MEDEP reports that FCEs were conducted at Red Shield Environmental, S.D. Warren Co., and Domtar Corp. on September 14, 2010, September 2010 (no specific date given), and August 4, 2010, respectively.) The investigation also revealed that EPA FCEs were conducted at Penobscot Energy Recovery Co. of

	Bangor, ME on July 15, 2009 and Ecomaine of Portland, ME on September 16, 2009 (these FCEs are reported in the OTIS Detailed Facility Reports for these two facilities.) Of the remaining nine facilities, MEDEP provided the following information: • CMP Androscoggin LLC – The last FCE was conducted in September 2010. • Mead Oxford Corp. – The last FCE was conducted in September 2010. • Lincoln Paper & Tissue – The last FCE was conducted on September 9, 2010. • Daaquam Maine – The last FCE was an “off-site” FCE dated September 28, 2007. The facility closed down but retains its Title V license. • Louisiana Pacific – The last FCE was conducted on August 23, 2007. The facility permanently closed as of December 28, 2009. • Naval Computer & Telecommunication – The last FCE was conducted on September 30, 2009. • Prime Tanning Co. – The last FCE was conducted on November 18, 2005. The facility permanently closed as of January 26, 2009. • Spencer Press – The last FCE was conducted on September 28, 2007. The facility permanently closed as of May 29, 2009. • Morin Brick (Gorham) – The last FCE was conducted on August 26, 2008. The facility permanently closed as of April 7, 2009. MEDEP needs to update AFS to ensure that proper “operating status” codes are entered for the four permanently closed facilities (Louisiana Pacific, Prime Tanning, Spencer Press, and Morin Brick–Gorham) and for the one closed facility retaining its Title V license (Daaquam Maine). Daaquam Maine is still required to submit annual Title V compliance certifications to MEDEP and EPA. Reviews of the annual compliance certifications can count as “off-site” FCEs until such time that the facility either relinquishes its license or starts up again. Based on the above information, MEDEP did not adhere to the CMS FCE frequency of three years for three of its mega sites (CMP Androscoggin LLC, Mead Oxford Corp., and Lincoln Paper & Tissue). FCEs were conducted at these three mega sites in FFY 2010. Based on the above information, MEDEP did not adhere to the CMS FCE frequency of two years for at least three Title V facilities (Louisiana Pacific, Naval Computer and Telecommunications Station, and Prime Tanning Co.) According to OTIS, Louisiana Pacific had its last FCE on August 23, 2007. Therefore, an FCE was due at this facility in FFY 2009 (MEDEP indicated that this source ceased operations in calendar year 2005 but retained its license.) The source permanently closed on December 28, 2009 (FFY 2010.) According to OTIS, Naval Computer and Telecommunications Station had its last FCE on January 12, 2006. Therefore an FCE was due at this facility in FFY 2008. MEDEP reported conducting an FCE at this facility on September 30, 2009 (FFY 2009.) According to OTIS, Prime Tanning had its last FCE on November 18, 2005. Therefore, an FCE was due at this facility in FFY 2008. MEDEP reported that this facility permanently closed on January 26, 2009 (FFY 2009.) The most recent FCEs at three other Title V facilities (Daaquam Maine, Spencer Press, and Morin Brick-Gorham) were not reported in the OTIS SRF Results database. According to OTIS, the last FCE at Daaquam Maine occurred on January 26, 2006. MEDEP reports that the last FCE at this facility occurred on September 28, 2007. In addition, the MEDEP reports that this facility closed down, but retains its Title V license. As mentioned above, MEDEP should conduct an “off-site” FCE at this facility by reviewing the required Title V annual compliance certification each year until such time as the license is either relinquished or the company starts up
--	--

	operations again. According to OTIS, the last FCE at Spencer Press was on September 28, 2005. MEDEP reports that the last FCE at this facility occurred on September 28, 2007. The facility permanently closed down during FFY 2009. According to OTIS, an FCE was never performed at Morin Brick-Gorham. MEDEP reports that this facility ceased operations in calendar year 2005, but retained its license and that an “off-site” FCE was conducted at this facility on August 26, 2008. The facility permanently closed during FFY 2009. Based on the above, the only outstanding Title V FCE due is for Daaquam Maine. If this facility has been submitting the required Title V annual compliance certifications since it shut down, then the review of these certifications can be considered “off-site” FCEs. EPA requests that MEDEP enter into AFS the most recent review date of Daaquam Maine’s Title V annual compliance certification as the most recent FCE (if the facility operated at all in FFY 2009 then MEDEP should also review any other reports submitted by the facility that alluded to compliance status at the facility) and properly code the facility operating status in AFS so as to take into account the facility’s shutdown status. If Daaquam Maine has not been submitting Title V compliance certifications, MEDEP should contact the facility and request that compliance certifications be submitted. Taking into account the additional FCE information provided by MEDEP, seven Title V facilities did not have FCEs conducted within the established timeframes of the CMS policy (CMP Androscoggin LLC, Mead Oxford Corp., Lincoln Tissue & Paper, Louisiana Pacific, Naval Computer and Telecommunications Station, Prime Tanning Co., and Daaquam Maine.) Therefore, MEDEP and/or EPA conducted FCEs at 60 out of a total of 67 Title V facilities (the OTIS SRF Results database reports 68 Title V facilities; however, Spencer Press was permanently closed during FFY 2009 – since this source had its last FCE on September 28, 2007, there is no timeliness issue here) within the proper CMS FCE frequency, for an inspection coverage of 89.6%, which is slightly better than the national average of 87.7% (the percentage would increase to 91.0% if it is assumed that MEDEP has reviewed annual Title V compliance certifications for Daaquam Maine in calendar years 2008 and 2009 that would count as “off-site” FCEs for this closed facility retaining its license.) EPA requests that MEDEP enter into AFS the more recent FCE information it has regarding the following ten Title V facilities: CMP Androscoggin LLC; Mead Oxford Corp.; Lincoln Paper & Tissue; Red Shield Environmental; Daaquam Maine; S.D. Warren Co.; Naval Computer & Telecommunication Station; Domtar Corp.; Spencer Press; and, Morin Brick-Gorham. EPA’s investigation into the 24 SM80 facilities reported in EPA’s OTIS SRF Results database as either not having had an FCE in the last full five years or not having had an FCE within the five-year cycle of the CMS policy by either MEDEP or EPA revealed that EPA FCEs were conducted at Naval Air Station Brunswick of Brunswick, ME on March 27, 2007 and Cyro Industries of Sanford, ME on October 15, 2008. Of the remaining 22 SM80 facilities, individual OTIS Detailed Facility Reports or MEDEP provided the following information: • Maine Medical Center (Portland) – According to OTIS, the last FCE was conducted on December 23, 2009. This FCE is in AFS/OTIS. • Gulf Oil (S. Portland) – According to MEDEP, the last FCE was conducted on May 6, 2010. This FCE needs to be entered into AFS. • Global Companies (S. Portland) – According to OTIS, the last FCE was conducted on March 10, 2010. This FCE is in AFS/OTIS. • Webber Tanks (Bucksport) – According to OTIS, the last FCE was conducted on April 27, 2004. The facility has since been permanently closed.
--	--

	• Exxon Mobil Corp. (Bangor) – According to MEDEP, the last FCE was conducted on May 22, 2007. This FCE needs to be entered into AFS. • Irving Oil (Searsport) – According to OTIS, the last FCE was conducted on April 27, 2004. EPA requests that MEDEP prioritize this facility for an FCE. • Fiber Materials (Biddeford) – According to MEDEP, the last FCE was conducted on April 28, 2010. This FCE needs to be entered into AFS. • Cold Brook Energy (Hampden) – According to MEDEP, the last FCE was conducted on May 22, 2007. This FCE needs to be entered into AFS. • Perma Treat Corp. (Mattawamkeag) – According to MEDEP, the last FCE was conducted on October 5, 2006. This FCE needs to be entered into AFS. The facility is currently temporarily closed. EPA requests that MEDEP update the “operating status” code for this facility in AFS. • Lane Construction 287 (Prospect) – The MEDEP reports that there is no record of an FCE being conducted at this facility. MEDEP also reports that this facility was reclassified as a “true minor” source in July 2009. • Florida Power & Light (S. Portland) – According to MEDEP, the last FCE was conducted on April 15, 2010. This FCE needs to be entered into AFS. • F.R. Carroll (Limerick) – According to MEDEP, the last FCE was conducted on September 7, 2010. This FCE needs to be entered into AFS. • Northeastern Log Homes (Kenduskeag) – According to MEDEP, the last FCE was conducted on April 9, 2007. This FCE needs to be entered into AFS. • National Semiconductor (S. Portland) – MEDEP reported that the record in AFS is mixed up with another facility, Fairchild Semiconductor. MEDEP did not provide any FCE information for this facility. There are two AFS numbers assigned to this facility. One of these AFS numbers, 2300500053, indicates that the last FCE was conducted on July 24, 2007. • Fairchild Semiconductor (S. Portland) – According to OTIS, the last FCE was conducted on March 5, 2010. This FCE is in AFS/OTIS. • Montreal, Maine & Atlantic Railway (Milo) – According to OTIS, the last FCE was conducted on February 16, 2006. This FCE is in AFS/OTIS. • Moosehead Furniture (Monson) – According to OTIS, the last FCE was conducted on February 22, 2006. This FCE is in AFS/OTIS. • Moosehead Mfg. (Dover-Foxcroft) – According to OTIS, the last FCE was conducted on February 22, 2006. This FCE is in AFS/OTIS. • Hardwood Products (Guilford) - According to OTIS, the last FCE was conducted on December 5, 2005. This FCE is in AFS/OTIS. • Jackson Laboratory (Bar Harbor) – According to OTIS, the last FCE was conducted on September 22, 2005. This FCE is in AFS/OTIS. • GPX International Tire (Gorham) – According to OTIS, the last FCE was conducted on August 9, 2006. This FCE is in AFS/OTIS. • Pleasant River Lumber (Dover-Foxcroft) – According to OTIS, the last FCE was conducted on July 20, 2005. This FCE is in AFS/OTIS. MEDEP needs to update AFS to ensure that the proper “operating status” code is entered for the one permanently closed facility (Webber Tanks of Bucksport, ME) and the one temporarily closed facility (Perma Treat Corp. of Mattawamkeag, ME.) EPA removed the CMSC flag (code “S”) from Lane Construction (Plant 287) in order to reflect its revised classification from an SM80 source to a “true minor” source. Based on the above information, MEDEP did not adhere to the CMS FCE frequency of five years for eight SM80 facilities. Inspections at seven of these eight SM80 facilities occurred in 2010 (Maine Medical Center of Portland, ME, Gulf Oil of S. Portland, ME, Global Companies of S. Portland, ME, Fiber Materials of Biddeford, ME, Florida
--	---

	Power & Light of S. Portland, ME, F.R. Carroll of Limerick, ME, and Fairchild Semiconductor of S. Portland, ME.) EPA requests that MEDEP enter these seven completed FCEs into AFS. EPA also requests that MEDEP prioritize an FCE at the remaining one facility (Irving Oil of Searsport, ME) that has not had an FCE within the proper CMS cycle. Based on the above, it appears that MEDEP did conduct timely FCEs at 12 of the SM80 facilities reported in the OTIS SRF Results database as having not had an FCE in the past five years or within the last five-year CMS cycle. The FCEs at eight of these facilities are now in AFS/OTIS; however, the FCEs were not reported in the OTIS SRF Results database until after EPA had “frozen” the data. Four of the remaining SM80 FCEs still were not in the OTIS SRF Results database as of October 14, 2010 (Exxon Mobil Corp. of Bangor, ME, Cold Brook Energy of Hampden, ME, Perma Treat Corp. of Mattawamkeag, ME, and Northeastern Log Homes of Kenduskeag, ME.) EPA requests that MEDEP enter these four completed FCEs into AFS. Taking into account the additional FCE information provided by MEDEP, it appears that a total of 48 FCEs were conducted at SM80 facilities by MEDEP or EPA within the proper CMS FCE cycle out of a total universe of 56 SM80 facilities (the OTIS SRF Results database reports 58 SM80 facilities; however, Webber Tanks has permanently closed and Lane Construction was reclassified as a “true minor” source in 2009), for an inspection coverage of 85.7%, which is slightly above the national average of 83.4% based on the five-year CMS cycle, and slightly below the national average of 90.3 % based on the last full five years. It should be taken into consideration that some of the SM80 facilities that were reported as not having had FCEs within the proper CMS cycle or not having had FCEs within the last full five years could be new sources or newly classified SM80 sources that have not been classified as SM80 facilities for a full five years. EPA’s investigation of the 11 NSPS facilities and 49 MACT facilities reported in EPA’s OTIS SRF Results database as having not been inspected since October 1, 2005 indicate that all 11 NSPS facilities and all 49 MACT facilities have had FCE inspections since that date. EPA believes the FCEs, including five EPA FCEs, at these facilities were not accounted for in the OTIS SRF Results database because the applicable NSPS or MACT subparts were not provided when the actions were entered into AFS. EPA’s review of the MEDEP file for Husson College of Bangor, ME (SM80 source) revealed that an FCE inspection conducted by MEDEP on June 13, 2008 was not reported in the OTIS Detailed Facility Report for the facility. EPA requests that MEDEP enter this FCE into AFS. In addition, the data metrics indicate that three Title V major sources (Wausau-Mosinee Paper Corp. of Jay, ME, Spencer Press of Wells, ME, and Morin Brick Co. of Gorham, ME) were missing the proper compliance monitoring strategy code (CMSC) flag of “V”. The proper CMSC code of “V” has since been assigned to these three facilities. (EPA has since removed the CMCS code of “V” from these three facilities to reflect their permanently closed operating status.) The data metrics also indicate that three HPVs (Huber Engineered Wood, LLC of Easton, ME, C.H. Sprague and Son Co. of Searsport, ME, and Mid Maine Waste Action Corp. of Auburn, ME) identified as such by the MEDEP in FFY 2009 were not entered into AFS and that two other HPVs identified by the MEDEP in FFY 2009 (F.R. Carroll, Inc. of Limerick, ME and Harry C. Crooker and Sons of Topsham, ME)
--	--

		and one HPV identified by the MEDEP in FFY 2008 (Husson College of Bangor, ME), were not entered into AFS within 60 days of discovery as required. The Husson College HPV is included in the FFY 2009 review period because this is the year that it was entered into AFS as an HPV. The data metrics also indicate that there are 25 facilities (23 Title V and 2 SM80 facilities) with a compliance status reported as “Unknown”. EPA requests MEDEP to review the data metrics (A05E0S) and update AFS as appropriate. Some of the “Unknown” compliance statuses may be due to the fact that FCEs have not been done or have not been reported into AFS. Title V and SM80 facilities that have not been inspected within the proper CMS cycle have their compliance status automatically changed to “Unknown”. MEDEP informed EPA that in September of 2010 its information technology (IT) staff made improvements/upgrades to the extraction program used to upload data from the ME DEP database through the universal interface to EPA’s AFS database. MEDEP believes that this IT upgrade, along with the newer version of the universal interface that was installed in FFY 2010, has resolved many of the data issues that MEDEP has been experiencing; however, the IT upgrade did not resolve the MDR data entry issues that would allow MEDEP to extract specific NSPS and MACT subpart information and Title V annual compliance certification information from its database to the AFS database. EPA requests that MEDEP continue to make upgrades to its own AECTS database so that MEDEP is capable of uploading all MDR data from its database to AFS.
	Metric(s) and Quantitative Value	Based on additional information provided by MEDEP, it appears that MEDEP has conducted FCEs at a total of 60 out of a total of 67 Title V facilities within the proper CMS cycle, or 89.6% (this percentage would increase to 91.0% if it is assumed that MEDEP has reviewed annual Title V compliance certifications for Daaquam Maine in calendar years 2008 and 2009 that would count as “off-site” FCEs for this closed facility retaining its license.) The national average was reported in the OTIS SRF Results database to be 87.7%. Based on additional information provided by MEDEP, it appears that MEDEP has conducted FCEs at 48 out of a total of 56 SM80 facilities within the proper CMS cycle, or 85.7%. The national average was reported in the OTIS SRF Results database to be 83.4% based on the five-year CMS cycle and 90.3% based on the last full five years. Based on EPA’s review, it was determined that MEDEP and/or EPA conducted FCEs at 100% of the 11 NSPS facilities and 49 MACT facilities reported in the OTIS SRF Results database as having not had an FCE since October 1, 2005. Based on EPA’s review, it was determined that six out of a total of six HPVs, or 100%, were not identified as such in AFS within 60 days of discovery as required. See Metrics A01A1S to A012K0S in Appendix D
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP shall request that Daaquam Maine submit all delinquent Title V annual compliance certifications and MEDEP shall review such certifications and enter the completed reviews in AFS/OTIS as “off-site” FCEs.

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.

1.2	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The data metrics and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #1.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Quantitative Value Section of Element #1.1.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP shall conduct an FCE at the following one SM80 source: Irving Oil of Searsport, Maine. MEDEP will also enter this one FCE into AFS/OTIS.

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.3	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The data metrics and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #1.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Quantitative Value Section of Element #1.1.
	State Response	

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP will ensure that all missing FCE data, described above in the explanation section of Element #1.1, for both Title V major and SM80 minor sources is properly entered into AFS.
--	--	--

[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.4	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The data metrics and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #1.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Quantitative Value Section of Element #1.1.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP will report to EPA whether the data issues it has been experiencing with its extraction program and/or the Universal Interface have been resolved. If the data issues have not been resolved, MEDEP will provide EPA with quarterly progress reports on the steps it has taken to resolve the data issues until such time that the data issues are resolved.
[CAA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.5	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The data metrics and the file review metrics indicate that there were issues regarding the completeness of minimum data requirements (MDRs). This same issue was discussed in the last MEDEP SRF review conducted in FFY 2007.

	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #1.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Quantitative Value Section of Element #1.1.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	MEDEP has proposed moving away from its media-specific AECTS database to a multimedia database entitled "EFIS" to ensure that, in the future, MEDEP is capable of uploading all required MDR data, such as specific NSPS and MACT subpart information and Title V annual compliance certification information, into the AFS database. To address CAA Element 1.5 MEDEP will • provide EPA with a "mission statement" for this database conversion project by December 31, 2011, • provide EPA with a "work schedule" for this database conversion project by March 31, 2012, • complete this database conversion project by December 31, 2014.

[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.).		
2.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The file review metrics and the data metrics indicate that there are some data accuracy issues.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	During the file review portion of the SRF, EPA compared data found in the MEDEP inspection and enforcement files with the corresponding OTIS Detailed Facility Reports. This review revealed data discrepancies as follows: • Covanta Maine (Lincoln, ME) – MEDEP files indicate that the source is in compliance while OTIS indicates that the source has an “Unknown” compliance status. The discrepancy here is likely the result of the fact that this Title V major source facility was not inspected within the two-year CMS inspection frequency required so that the compliance status was automatically changed to “Unknown”. An FCE was conducted at this facility on June 20, 2006. The next FCE at this facility was conducted on May 26, 2009. • F.R. Carroll (Limerick, ME) – EPA’s review of this file and follow-up questions to MEDEP indicated that both a partial compliance inspection (PCE) and a Letter of Warning occurred on November 23, 2008. The PCE was not inputted in either the MEDEP or the AFS database. In addition, a review of the OTIS Detailed Facility Report “Three Year Compliance Status by Quarter” data

		revealed that the facility was an unaddressed HPV violator from the October through December 2008 calendar quarter through the April through June 2009 calendar quarter. The HPV was a result of the facility failing to perform an initial performance test as required by NSPS Subpart I for asphalt batch plants. The corresponding NSPS program field, for the timeframe described above, was left blank rather than reporting a compliance status of “in violation”. • Florida Light and Power (Yarmouth, ME) - OTIS reported the facility as subject to MACT while the MEDEP files did not mention any applicability to MACT standards. The discrepancy here is likely due to the fact that the “Boiler MACT – Subpart DDDDD” was vacated and OTIS was not updated to reflect this fact. • Huber Engineered Wood (Easton, ME) – The SRF File Selection Tool did not report this facility as an HPV for FFY 2009. The MEDEP identified this facility as an HPV in FFY 2009 (Day 0 = 4/29/09). The penalty figure reported in OTIS for the Consent Agreement that resolved this violation was \$0.0. The MEDEP enforcement file indicates that the penalty figure for the Consent Agreement resolving this violation was \$4,500 (\$900.00 cash penalty and \$3,600 SEP). EPA requests that MEDEP enter the penalty figure into AFS. • Husson College (Bangor, ME) - MEDEP files indicate that an FCE inspection was conducted at this facility on June 13, 2008. This FCE inspection is not reported in OTIS. EPA requests that MEDEP enter this FCE into AFS. • Madison Paper (Madison, ME) – The OTIS Detailed Facility Report “Three Year Compliance Status by Quarter” data for this facility revealed that the facility was an unaddressed HPV violator from the October through December 2007 calendar quarter through the January through March 2009 calendar quarter. However, all of the various air programs report a compliance status of “in compliance” during the first three calendar quarters while this HPV was unaddressed. The Title V program compliance status code is changed to “emission and procedural violation” starting with the July through September 2008 calendar quarter. • Mid Maine Waste Action Corp. (Auburn, ME) - The SRF File Selection Tool did not report this facility as an HPV for FFY 2009. The MEDEP identified this facility as an HPV in FFY 2009 (Day 0 = 11/27/08). The SRF File Selection Tool also did not report that an informal enforcement action was taken against this facility in FFY 2009; however, OTIS does report that a Notice of Violation was issued to the facility by the MEDEP on March 25, 2009. The OTIS Detailed Facility Report “Three Year Compliance Status by Quarter” data for this facility revealed that the facility was an unaddressed HPV violator from the October through December 2008 calendar quarter through the January through March 2010 calendar quarter. However, all of the various air programs report a compliance status of “in compliance” during the entire time frame that the facility was reported as an unaddressed HPV. • Moose River Lumber (Moose River, ME) – The OTIS Detailed Facility Report indicates that the MEDEP conducted an FCE inspection at this facility on September 2, 2009. After some discussion with the MEDEP, because the compliance monitoring report could not be found, it was determined that MEDEP did not conduct an FCE inspection at this facility on that date. The last FCE inspection at this facility was conducted on September 24, 2007. This FCE inspection is not reported in AFS/OTIS. EPA requests that MEDEP enter this
--	--	---

	FCE in AFS/OTIS. Since this is a Title V major source, the facility was overdue for an FCE inspection; however, MEDEP informed EPA that an FCE was conducted at this facility on October 7, 2010. This FCE is found in AFS/OTIS. • National Semiconductor (S. Portland, ME) – The OTIS Detailed Facility Report for this facility reports that the facility failed a stack test on February 18, 2009. This is inaccurate. The facility actually passed the stack test, but because of a logic issue with the MEDEP testing database the compliance status of the test was reported incorrectly. The logic for the MEDEP test database is based on emission limits so that if a test measurement figure is higher than the target number then the outcome is assumed to be a failure. However, in this case, the test measurement figure was not emission-based, but rather based on control efficiency. Therefore, the higher control efficiency figure as compared to the target control efficiency figure was reported as a failure when it should have been reported as a pass. • Pleasant River Lumber (Dover-Foxcroft) – The OTIS Detailed Facility Report for this facility indicates that the last FCE inspection of this facility took place on July 20, 2005. The MEDEP files indicate that the last FCE inspection of this facility occurred on October 5, 2006. The more recent FCE needs to be entered into AFS. • Trombley Industries (Caribou, ME) – The OTIS Detailed Facility Report for this facility indicates that the MEDEP issued the facility a Notice of Violation on November 5, 2008 and a Consent Agreement on April 16, 2009; however, the OTIS “Three Year Compliance Status by Quarter” data reports that the facility was in compliance during the entire period when MEDEP was pursuing enforcement against the source (this facility is classified as a federally-reportable minor source). OTIS also reports that there are two stack tests, both conducted at Ecomaine of Portland, ME in October of 2008, where a result code of “pass” or “fail” has yet to be entered in AFS/OTIS. EPA requests that MEDEP enter this data. In discussing the compliance status inconsistency issue with the MEDEP, EPA came to a mutual agreement with MEDEP that for compliance code changes that encompassed more than one AFS air program (e.g., Title V, SIP, NSPS, and MACT), a change in the compliance status code for the one air program code that most closely represents the details necessitating the change in compliance code would be selected instead of changing all the applicable air program codes. This would reduce the need to change the compliance codes for multiple air programs and minimize compliance status code inconsistencies in AFS. For example, any SIP, NSPS, or MACT violations found at a particular Title V source where the corresponding SIP, NSPS, or MACT requirement is incorporated into a Title V license, MEDEP would prefer to only revise the compliance code for the Title V air program and not make any compliance code changes to the other applicable air program codes. During the discussion of this finding, MEDEP stressed the need for AFS modernization. The MEDEP believes a modernized database would help alleviate many of the data accuracy issues they have experienced. For instance, it would be helpful to have a database that had the ability to automatically revise “Air Program” compliance status codes, when an activity such as an FCE or a stack test warranted it, without the need for MEDEP to manually change the codes in AFS.
Metric(s) and Quantitative Value	A total of 11 out of the 18 files and associated OTIS detailed facility reports reviewed, or 61.11%, had some type of data inconsistencies. A total of 7 out of the 18 files reviewed, or 38.89% had some type of data inconsistency when compared to the corresponding OTIS

		detailed facility reports, while a total of 4 out of 18 OTIS detailed facility reports, or 22.22%, had inconsistencies or conflicting data within the reports themselves. Compliance status inconsistencies were found in a total of 6 out of the 18 files and associated OTIS detailed facility reports, or 33.33%, (one of these compliance status inconsistencies was a result of the automatic compliance status change from “in compliance” to “Unknown” when an FCE inspection was not conducted within the appropriate CMS frequency and another compliance status inconsistency dealt with a database logic issue regarding stack testing as described in the explanation section of Element #2 above). The remaining four compliance status inconsistencies pertained to conflicting data found within different sections of OTIS detailed facility reports, where it did not appear that the compliance status of applicable air programs were being updated when there was a compliance status change made elsewhere in the reports. A02A0S - Number of HPVs/Number of NC Sources (1 FY) - 7.1% A02A0C - Number of HPVs/Number of NC Sources (1 FY) - 7.1% A02B1S - Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY) - 2.9% A02B2S - Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY) – 5 Metric 2c - % of files reviewed where MDR data are accurately reflected in AFS - 38.9%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP will ensure that all missing MDR data, as described above in the explanation section of Element #2.1, is properly entered or updated in AFS. (This includes entering/updating FCE data, penalty data, stack test “pass/fail” data, and compliance status data.)

[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.).		
2.2	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	The file review metrics and the data metrics indicate that there are some data accuracy issues.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #2.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Qualitative Value Section of Element #2.1.
	State Response	

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By December 31, 2011, MEDEP will inform EPA of the steps taken to correct the logic issue pertaining to its stack test database so that compliance with control efficiency requirements is accurately reflected.
--	--	--

[CAA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.		
3.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	MEDEP was at or below the national average for data timelines metrics. • MEDEP is 32% below the national average of 32% for entering HPV data into AFS in a timely manner. • MEDEP is 20.0% below the national average of 52.6% for having compliance monitoring related MDRs reported into AFS in a timely manner. • MEDEP is 4.3% below the national average of 67.3% for having enforcement related MDRs reported into AFS in a timely manner.

	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	None of the three HPVs reported in OTIS (Husson College of Bangor, ME, F.R. Carroll of Limerick, ME and, Harry C. Crooker and Sons of Topsham, ME) were entered into AFS within 60 days. In addition, three additional HPVs identified by the MEDEP in FFY 2009 (Mid Maine Waste Action Corp. of Auburn, ME, C.H. Sprague and Sons of Searsport, ME, and Huber Engineered Wood of Easton, ME) were not entered into AFS until June 9, 2010. OTIS reports that MEDEP entered 78 out of a total of 239 (32.6%) compliance monitoring MDRs within 60 days of completion of the activity. OTIS reports that MEDEP entered 17 out of a total of 27 (63%) enforcement related MDRs within 60 days of the activity being taken. At the start of FFY 2006, MEDEP took the initiative to add HPV information into AFS itself through the universal interface. Prior to that time, MEDEP would complete HPV data entry forms and submit them to EPA for entry into AFS. Since taking over this responsibility, MEDEP has been experiencing problems linking various actions to the applicable “Day 0” of a given HPV. MEDEP contacted EPA’s AFS hotline and was given suggestions on how to overcome the data issues it was experiencing while trying to provide information to AFS through the universal interface. To date, MEDEP has experienced problems uploading HPV data, as well as other compliance monitoring and enforcement-related data from its database through the universal interface to AFS. The timeliness issue regarding HPV identification into AFS was highlighted in the last MEDEP SRF report completed in 2007. In the last SRF report, recommendations were made by EPA that required MEDEP to make a decision as to whether it should relinquish the HPV reporting responsibilities to EPA. As of June 2010, MEDEP and EPA mutually agreed that EPA would resume responsibility for this activity. In September 2010, MEDEP informed EPA that its IT staff made improvements/upgrades to the MEDEP database that should resolve many of the data issues already discussed in this SRF report; however, there are still some MDRs that MEDEP cannot upload from its database to AFS (i.e., NSPS and MACT Subparts and some Title V annual compliance certification information.) The recommendations found in Elements #1.4 and #1.5 apply to this Element as well.
	Metric(s) and Quantitative Value	The percent of HPVs where HPV data was entered into AFS in a timely manner was 0.0%. The Clean Air Act (CAA) data metrics (preliminary data analysis) indicates that HPV data was entered into AFS in a timely manner for 0 out of 3 identified HPVs. Also, there were an additional three HPVs that were identified in FFY 2009 that were not entered into AFS until June 9, 2010. OTIS reports that MEDEP entered 78 out of a total of 239 (32.6%) compliance monitoring MDRs within 60 days of completion of the activity. OTIS reports that MEDEP entered 17 out of a total of 27 (63%) enforcement related MDRs within 60 days of the activity being taken. A03A0S - Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY) - 0.0% A03B1S - Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) - 32.6% A03B2S - Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY) - 63.0%

	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The recommendations for Elements 1-4 and 1-5 (copied here for the reader's convenience), when completed, should address the issue described in this element. 1.4 - By December 31, 2011, MEDEP will report to EPA whether the data issues it has been experiencing with its extraction program and/or the Universal Interface have been resolved. If the data issues have not been resolved, MEDEP will provide EPA with quarterly progress reports on the steps it has taken to resolve the data issues until such time that the data issues are resolved. MEDEP has proposed moving away from its media-specific AECTS database to a multimedia database entitled "EFIS" to ensure that, in the future, MEDEP is capable of uploading all required MDR data, such as specific NSPS and MACT subpart information and Title V annual compliance certification information, into the AFS database. To address CAA Element 1.5 MEDEP will • provide EPA with a "mission statement" for this database conversion project by December 31, 2011, • provide EPA with a "work schedule" for this database conversion project by March 31, 2012, • complete this database conversion project by December 31, 2014.

[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.

4.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	The OTIS SRF Results database indicates that MEDEP surpassed all of the inspection-related commitments it made in its PPA for FFY 2009, as well as the inspection commitments required by the CMS Policy. In addition, MEDEP met the compliance certification review commitments it made in its PPA for FFY 2009.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	In its Performance Partnership Agreement (PPA) for federal fiscal year 2009, MEDEP committed to the following: • Implement the CMS policy, including a commitment to conducting FCE inspections at 41 Title V facilities and 105 synthetic minor and true minor sources. • Review all Title V annual compliance certifications and continuous emission monitoring (CEM) reports. The OTIS SRF Results database report, dated January 29, 2010, reported that MEDEP conducted 48 FCE inspections at Title V major source facilities and 17 FCE inspections at SM80 facilities in FFY 2009. In addition, MEDEP's database reported that FCE inspections were conducted at 182 other synthetic minor and true minor sources (179 on-site and 3 off-site FCEs) in FFY 2009.

		The OTIS SRF Results database (Frozen Data) indicates that MEDEP reviewed 66 out of a total of 66 Title V annual compliance certifications for FFY 2009.
	Metric(s) and Quantitative Value	MEDEP conducted 48 FCE inspections at Title V major source facilities in FFY 2009. It committed in its PPA to conducting 41 FCE inspections at such facilities. Therefore, MEDEP surpassed both this PPA commitment and the CMS policy requirements regarding Title V source inspection frequency for FFY 2009 (taking into account Maine's 11 mega-sites that are on a three year inspection frequency, MEDEP is required to conduct FCE inspections at approximately 32 or 33 Title V major source facilities per year.) Therefore, MEDEP conducted major source FCEs at 117.17% (48/41) of Title V major sources it committed to in its PPA with EPA and conducted major source FCEs at 145.45% (48/33) of Title V major sources it committed to based on the CMS Policy, for FFY 2009. MEDEP conducted 17 FCE inspections at SM80 facilities in FFY 2009. The CMS policy requires that FCE inspections be conducted at 20 percent of SM80s facilities each year. The OTIS SRF Results database reports that Maine has 58 such facilities. Therefore, based on the CMS policy, MEDEP was required to conduct FCE inspections at 12 SM80 sources in FFY 2009. Therefore, MEDEP surpassed this CMS policy commitment by conducting FCEs at 141.67% (17/12) of its SM80 sources for FFY 2009. MEDEP conducted 17 FCE inspections at SM80 sources and 182 FCE inspections at other synthetic minor and true minor sources for a total of 199 FCE inspections at all synthetic minor and true minor facilities. In its PPA with EPA, the MEDEP committed to conducting 105 FCE inspections at synthetic minor and true minor sources. Therefore, MEDEP surpassed this PPA commitment by conducting FCEs at 189.52% (199/105) of its synthetic minor and true minor sources for FFY 2009. The OTIS SRF Results database (Frozen data) reports that MEDEP reviewed 66 Title V annual compliance certifications out of a total of 66 certifications due in FFY 2009, or 100%. Metric 4a - % of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan. • 89.6% TV FCEs completed within CMS cycle • 85.7% SM80 FCEs completed within CMS cycle • 100% FCEs completed at NSPS and MACT facilities since October 1, 2005 Metric 4b - Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated. • 117.17% TV FCEs completed when compared to PPA commitment for FFY 2009 • 145.45% TV FCEs completed when compared to CMS Plan for FFY 2009 • 141.67% SM80 FCEs completed when compared to CMS Plan for FFY 2009 • 189.52% Synthetic and True Minor FCEs completed when compared to PPA commitments • 57.14% HPVs without timely formal enforcement action 100% of HPVs not identified as HPVs in AFS within 60 days of violation discovery
	State's Response	

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	
--	--	--

[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.

4.2	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	The OTIS SRF Results database indicates that MEDEP is not entering MDR data in a timely manner and is not always identifying HPVs in a timely manner. In addition, MEDEP is not always addressing HPVs in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	In its Performance Partnership Agreement (PPA) for federal fiscal year 2009, MEDEP committed to the following: • Enter/send MDRs data to AFS at least once every 60 calendar days. • Identify/address/resolve HPVs in accordance with EPA's "Timely and Appropriate" Enforcement Response to HPVs (the HPV policy) of July 1999. MEDEP had issues related to the timely reporting of compliance and enforcement related MDRs, as well as, the timely identification of HPVs, as described in Elements #1 and Element #3, above. In addition, there were issues regarding the timely issuance of formal enforcement against identified HPVs that will be discussed in further detail in Element #10.
	Metric(s) and Quantitative Value	See the Metric(s) and Quantitative Value Sections of Element #1.1 and Element #3.1 for details regarding timeliness issues related to the identification of HPVs and reporting of MDRs into AFS. See Metric(s) and Quantitative Value Section of Element #10.1 for details regarding timeliness issues related to the issuance of formal enforcement actions by the MEDEP. Metric 4a - % of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan. • 89.6% TV FCEs completed within CMS cycle • 85.7% SM80 FCEs completed within CMS cycle • 100% FCEs completed at NSPS and MACT facilities since October 1, 2005 Metric 4b - Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated. • 117.17% TV FCEs completed when compared to PPA commitment for FFY 2009 • 145.45% TV FCEs completed when compared to CMS Plan for FFY 2009 • 141.67% SM80 FCEs completed when compared to CMS Plan for FFY 2009 • 189.52% Synthetic and True Minor FCEs completed when compared to PPA commitments • 57.14% HPVs without timely formal enforcement action 100% of HPVs not identified as HPVs in AFS within 60 days of violation discovery

	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	See the recommendations found in Elements #1.1, #1.2, #1.3, #1.4, #1.5, #10.1, and #10.2.

[CAA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Although MEDEP did not conduct FCEs at all required Title V major and SM80 sources according to the inspection frequency established in the CMS Policy, MEDEP did surpass the national average for both of these categories, when taking into account the updates MEDEP provided to EPA as part of this SRF review.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	According to the preliminary data analysis, the MEDEP and EPA, combined, conducted FCEs at a total of 84.6% of the required Title V major sources within the required two year CMS cycle (three years for mega-sites), ending in FFY 2009. After discussions with the MEDEP, it was determined that MEDEP and EPA combined, actually conducted FCEs at 60 out of a total of 67 Title V major sources within the proper CMS Policy frequency (the OTIS SRF Results database reports 68 Title V facilities; however, Spencer Press was permanently closed during FFY 2009 – since this source had its last FCE on September 28, 2007, there is no timeliness issue here). Therefore, the Title V major source inspection coverage percent is 89.6% (60/67). The national average for Title V major source inspection coverage, for FFY 2009, was reported in the OTIS SRF Results database to be 87.7% for combined state and EPA activity. Therefore, MEDEP is slightly above the national average for inspection coverage at Title V major sources (89.6% vs. 87.7%). According to the preliminary data analysis, the MEDEP and EPA, combined, conducted FCEs at a total of 69.6% of the required SM80 sources within the five year CMS cycle. After discussions with the MEDEP, it was determined that MEDEP and EPA combined, actually conducted FCEs at 48 out of a total of 56 SM80 sources (the OTIS SRF Results database reports 58 SM80 facilities; however, Webber Tanks has permanently closed and Lane Construction (Plant 287) was reclassified to a “true minor” source in FY 2009). Therefore, the SM80 inspection coverage percent is 85.7% (48/56). The national average for SM80 source inspection coverage, for FFY 2009, was reported in the OTIS SRF Results database to be 83.4% for combined state and EPA activity. Therefore,

		MEDEP is slightly above the national average for inspection coverage at SM80 sources (85.7% vs. 83.4%). This element is considered an “area of state concern” only because several FCEs were not reported in AFS. This issue is already addressed with recommendations found in Elements #1 and #2. In addition, with its new inspector now fully trained, MEDEP expects, going forward, that it will be able to meet all of its inspection commitments.
	Metric(s) and Quantitative Value	Based on the updates MEDEP provided to EPA during the SRF review, MEDEP and EPA, combined, conducted FCEs at 60 out of a total of 67 Title V major sources, or 89.6%, for the SRF review period (FFY 2009). Based on the updates MEDEP provided to EPA during the SRF review, MEDEP and EPA, combined, conducted FCEs at 48 out of a total of 56 SM80 sources or, 85.7%, for the SRF review period (FFY 2009). A05A1S - CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) - 81.5% A05A1C - CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle) - 84.6% A05A2S - CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY) - 79.4% A05A2C - CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY) - 82.4% A05B1S - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) - 65.2% A05B1C - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) - 69.6% A05B2S - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) - 72.4% A05B2C - CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY) - 74.1% A05C0S - CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) - 74.3% A05C0C - CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY) - 76.5% A05D0S - CAA Minor FCE and Reported PCE Coverage (last 5 FY) - 45.5% A05E0S - Number of Sources with Unknown Compliance Status (Current) - 25 A05E0C - Number of Sources with Unknown Compliance Status (Current) - 25 A05F0S - CAA Stationary Source Investigations (last 5 FY) - 0 A05G0S - Review of Self-Certifications Completed (1 FY) - 100.0%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

6.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
------------	---------------------------------------	--

	Finding	EPA's review indicated that the inspection reports or compliance monitoring reports (CMRs), in general, did not contain enough detail to fully document that an FCE inspection was conducted.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	EPA reviewed the MEDEP inspection reports or CMRs for the 12 facility files where FCE inspections were conducted. This included ten CMRs for FFY 2009 FCE inspections and two CMRs for FFY 2008 FCE inspections. The two CMRs for FCE inspections conducted in FFY 2008 (Huber Engineered Wood of Easton, ME and Husson College of Bangor, ME) were reviewed for continuity purposes since enforcement action was taken by MEDEP in FFY 2009 against these two facilities. EPA reviewed licenses that corresponded to the CMRs reviewed to gain a better and more accurate perspective on the overall inspection report content. Based on this review, EPA found the following: • Cianbro Fabrication & Coating – The license included specific emission limits that the facility's coatings were required to meet, depending on the type of coating used. The limits ranged from 3.0 pounds of volatile organic compound (VOC) per gallon of coating to 4.3 pounds of VOC per gallon of coating. The inspection report did not mention whether the individual coatings used were complying with the appropriate emission limits. The report only verified that the facility was maintaining yearly VOC emissions below the annual cap of 49.7 tons. Also, the report did not mention whether VOC and hazardous air pollutant (HAP) containing materials were stored in vapor-tight containers as required by the license. • Covanta Maine LLC – The license contains recordkeeping requirements regarding the amount of each fuel combusted each day in Boiler #1. The report did not mention whether this recordkeeping was being maintained by the source. The license also requires the facility to calculate the annual capacity factor for wood and propane for each semiannual period. The report did not mention whether the facility was performing these calculations. Also, the report did not mention whether the facility's emergency diesel fire pump was complying with the operating cap of 500 hours per year. The report did include overarching statements such as "the quarterly and semiannual reports appeared to be complete" and "the following documents were collected and compared to license conditions..." Some of the information alluded to in these statements was a snapshot of compliance during the inspection, but did not provide specific long term compliance information for various Title V license conditions. • Eastern Maine Medical Center – The license includes a limit on the sulfur content (0.05%, by weight) of the fuel used to operate the facility's three generators. The report did not indicate whether the facility was complying with the sulfur content limit for Generators #2 and #3. In addition, the report does not specifically indicate that the facility was complying with the sulfur content limit of 0.5%, by weight, for Boiler #1, as required by the license. In addition, the report indicates that the license fuel use limit of 200,000 million British Thermal Units per hour (mmBTU/hr) is only for Boiler #1, when the fuel use limit is actually for Boilers #1, #2, #4, #5, and #6, combined. The report also does not indicate whether the facility's four snow melters were complying with the combined fuel limit of 18 million standard cubic feet per each 12 month rolling total. Lastly, the license includes a sulfur limit for natural gas and diesel fuel used to operate the facility's combustion turbine generator. The report does not indicate whether the facility was complying with these sulfur limits.

		Florida Light & Power – The license includes a sulfur limit of 2.0%, by weight, for the blended fuel oil used in Boilers #1, #2, #3, and #5. The report does not indicate whether the facility is complying with this limit. This report also makes overarching statements of compliance such as “Florida Power and Light was found to be in compliance with the terms and conditions of their air license...” without providing specific compliance determinations for each permit condition. For example, the report does not indicate whether Boilers #1, #2, and #5 are equipped with low-NOx burners, as required by the license. Harry C. Crooker & Sons – The license includes a sulfur limit (0.5%, by weight) for the fuel oil used in the asphalt batch plant kiln. The report does not indicate whether the facility is complying with this limit. The report also did not indicate whether the facility was complying with the recordkeeping requirements of NSPS Subpart A (General Provisions) and Subpart OOO for non-metallic mineral processing plants. Also, the report did not provide compliance determinations regarding the facility’s parts washer (whether the facility had the proper operating procedures posted on or adjacent to the unit, whether the unit was equipped with an internal drainage basket, and whether solvent usage records were being kept.) Huber Engineered Wood – The facility license indicates that the facility maintains a parts washer, an ink jet printer, Edge Spraying operation, and a gasoline tank, all of which have license conditions. The report does not mention these units. The report provides a blanket statement that the facility was “in compliance”. Husson College – The license includes a fuel use limit of 600,000 gallons per year, combined, for all eight boilers maintained by the facility. The report indicates that the limit only applies to Boiler C-2. The report only reports fuel usage, 280,000 gallons, under Boiler C-2, but the EPA reviewer suspects that this usage was for all eight boilers, combined. Madison Paper – The inspection report associated with this FCE inspection did not provide any specific compliance determinations, but rather made an overarching statement as follows “all items observed at the time of the inspection appeared to be in compliance with the Title V air emission license and Bureau of Air Quality regulations.” With a statement like this it is difficult to determine if the inspector looked at all emission units, such as the parts washers, and whether long term compliance was determined or whether compliance was based on a snapshot of the facility during the inspection itself. Mid Maine Waste Action Corp – The inspection report for this FCE inspection did not provide detailed compliance determinations for each license condition. For instance, the report does not indicate whether the facility was complying with any of the following: the licensed annual capacity factor limit of 10% for natural gas usage; the 50 pound/year mercury emission limit; the minimum combustor temperature and flue gas residence time of 1800 degrees Fahrenheit and one second, respectively; the combustor maximum load level of 110% of the demonstrated combustor load level; and the sulfur content limit (0.05%, by weight) of the fuel used in the emergency diesel generator and diesel fire pump. Rumford Paper – The inspection report did not indicate whether the facility’s turbine was operating with a selective catalytic reduction control device, as required by the facility license. In addition, the report did not mention the 4.5
--	--	--

		mmBTU/hr natural gas-fired water heater (no compliance determination was necessary for this unit during the inspection since the only license condition is based on a stack test demonstration that the MEDEP has yet to require the facility to conduct.) • Tatermeal – The inspection report did not indicate whether Dryer #1, Dryer #2, and Dryer #3 were each equipped with fuel oil meters on the supply line to each dryer, as required by the facility’s license. In addition the facility is required to maintain records of the hours of operation of its regenerative thermal oxidizer. The report did not indicate whether this recordkeeping was being done. Also, the report does not indicate whether the facility is complying with various license conditions for its parts washer such as whether the unit has a cover, an internal drainage basket, or conspicuous posting of proper operating procedures affixed on or adjacent to the unit. • Trombley – The inspection report did not indicate whether the facility was maintaining a daily log of the hours of operation of the primary rock crusher, as required by the facility’s license. The report also did not indicate whether there were any visible emissions coming from the roadways and/or stockpiles located on the facility property. The license requires that visible emissions from roadways and stockpiles be limited to 20 percent opacity. Inspection reports were reviewed for all four of MEDEP’s regional offices. Since all 12 CMRs had some type of deficiency, it was determined that this was a widespread issue and not limited to one regional office or one inspector. During the last SRF review in Maine, EPA discussed this inspection report issue with the MEDEP and suggested that they develop a template for each Title V source that provides all license conditions that apply to a given source and provides space so that a compliance determination and brief comment can be made for each license condition. Using this template, an inspector is less likely to overlook an emission unit or license condition. EPA reiterates this suggestion and broadens it such that MEDEP not only develop a template for Title V facilities, but for all licensed facilities, as a way of ensuring that compliance determinations are made for all license conditions when performing an FCE inspection. All inspection reports were completed within one month of the applicable FCE inspection being performed, with the exception of one report that was completed within two months of the applicable FCE inspection. MEDEP’s compliance monitoring staff should be commended for the work they do in completing inspection reports in a timely manner.
	Metric(s) and Quantitative Value	A total of 12 out of the 18 files reviewed included FCEs and inspection reports, or 66.7% of the files reviewed. A total of 11 out of the 12 inspection reports, or 91.7%, were completed within a month of the applicable FCE. A total of 1 out of the 12 inspection reports, or 8.3%, were completed within two months of the applicable FCE. Please note that the File Selection Tool indicated that an FCE was conducted at Moose River Lumber of Moose River, Maine in FFY 2009. This is inaccurate. The last FCE at this facility was performed on September 24, 2007. Metric 6a - # of files reviewed with FCEs - 66.67% Metric 6b - % of FCEs that meet the definition of an FCE per the CMS policy - 0.0% Based on CMR Report Reviews Metric 6c - % of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility - 100%

	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	This is the one remaining recommendation from the last Maine SRF review that has not been completed. MEDEP brought the subject up during a recent Northeast States Coordinated Air Use Management (NESAUM) Enforcement Committee meeting that was held on November 8 and 9, 2010 to determine what other states were doing. The Rhode Island Department of Environmental Management (RIDEM) discussed the inspection template that it uses for Title V facilities. After the last Maine SRF review, EPA provided MEDEP with a copy of the inspection template that RIDEM uses. By June 30, 2012, MEDEP will report progress it has made to improve the quality of inspection reports, including but not limited to, any additional training for inspectors, the development of new MEDEP procedures, and the development of templates, checklists, model reports to assist inspectors. Future inspection reports will need to include: • A reference that the inspector reviewed the file for past enforcement history and, if applicable, reference that the enforcement documents are kept in the enforcement case file. If there has been no past enforcement, the inspector will need to note this in the report. • All applicable requirements and/or a reference to the appropriate license(s). • An indication of whether the inspection was an FCE or a PCE. • An indication of whether the inspected facility was a Title V, SM80, other synthetic minor, or true minor source. • A description of all emission units that have regulatory requirements. Once MEDEP reports that it has resolved this issue, EPA will review some random reports to verify that the inspection reports contain all the required information. By March 31, 2012, MEDEP will have a new and improved inspection report format in place that will improve the quality of inspection reports such that the reports will include all the required information as described in the CMS Policy.

[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.

6.2	Is this finding a(n) (select one):	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP completes inspection reports in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	All inspection reports were completed within one month of the applicable FCE inspection being performed, with the exception of one report that was completed within two months of the applicable FCE inspection. MEDEP's compliance monitoring staff should be commended for the work they do in completing inspection reports in a timely manner.
	Metric(s) and Quantitative Value	A total of 12 out of the 18 files reviewed included FCEs and inspection reports, or 66.7% of the files reviewed. A total of 11 out of the 12 inspection reports, or 91.7%, were completed within a month of the applicable FCE. A total of 1 out of the 12 inspection

		reports, or 8.3%, was completed within two months of the applicable FCE. Please note that the File Selection Tool indicated that an FCE was conducted at Moose River Lumber of Moose River, Maine in FFY 2009. This is inaccurate. The last FCE at this facility was performed on September 24, 2007.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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).

7.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Some violations were not properly entered into AFS; however, MEDEP does make accurate compliance determinations based on inspections, stack test observations, and various report reviews.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	MEDEP made accurate compliance determinations based on inspections, stack test observations, and various report reviews (e.g., Title V annual compliance certifications, final stack test reports, CEM reports, semiannual monitoring and deviation reports, etc.). The preliminary data analysis indicates that MEDEP observed three stack tests in FFY 2009 which resulted in “failed” tests where the corresponding OTIS Detailed Facility Reports contained conflicting compliance status information (Mid Maine Waste Action Corp. of Auburn, ME, National Semiconductor Company of South Portland, ME, and Maine Wood Pellets Company of Athens, ME). In the case of Mid Maine Waste Action Corp., the OTIS Detailed Facility Report indicates that there was a “failed” stack test that occurred on October 28, 2008. This same report under the heading “Air Compliance Status” correctly reports under “HPV History” that the facility is an unaddressed HPV beginning when the “failed” stack test occurred. However, under the same heading “Air Compliance Status”, the applicable air programs indicate that the facility was “in compliance” for the entire reporting period of July 2007 through June 2010. In the case of National Semiconductor Company, the OTIS Detailed Facility Report indicates that there was a “failed” stack test that occurred on February 18, 2009. This same report under the heading “Air Compliance Status” indicates that the facility was not an HPV and that the facility was “in compliance” for all applicable air programs. As described in Element #2 above, the MEDEP test database has a logic issue regarding tests that are related to control efficiency. The database is based on emission limits such that a result over the target figure is considered “in violation”. Therefore, when a control efficiency figure comes back above the target figure, it is incorrectly reported as a violation. In this case, the control efficiency demonstrated by the stack test was above that required, and thus, National Semiconductor Company was actually “in compliance”

		based on the stack testing performed. In the case of Maine Wood Pellets Company, the OTIS Detailed Facility Report indicates that there was a “failed” stack test that occurred on November 20, 2008. This same report under the heading “Air Compliance Status” indicates a compliance status of “Unknown” for the one applicable air program (SIP – State Implementation Plan). (Please note that this is a non-reportable minor source so the facility was not classified as an HPV.) Additionally, as described in Element #2.1 above, there were four other files reviewed as part of this SRF review that contained inconsistent compliance status information as follows: • Covanta Maine (Lincoln, ME) – MEDEP files indicate that the source is in compliance while OTIS indicates that the source has an “Unknown” compliance status. The discrepancy here is likely the result of the fact that this Title V major source facility was not inspected within the two-year CMS inspection frequency required so that the compliance status was automatically changed to “Unknown”. An FCE was conducted at this facility on June 20, 2006. The next FCE at this facility was conducted on May 26, 2009. • F.R. Carroll (Limerick, ME) – A review of the OTIS Detailed Facility Report “Three Year Compliance Status by Quarter” data for this source revealed that the facility was an unaddressed HPV violator from the October through December 2008 calendar quarter through the April through June 2009 calendar quarter. The HPV was a result of the facility failing to perform an initial performance test as required by NSPS Subpart I for asphalt batch plants. The corresponding NSPS program field, for the timeframe described above, was left blank rather than reporting a compliance status of “in violation”. • Madison Paper (Madison, ME) – A review of the OTIS Detailed Facility Report “Three Year Compliance Status by Quarter” data for this source revealed that the facility was an unaddressed HPV violator from the October through December 2007 calendar quarter through the January through March 2009 calendar quarter; however, all of the applicable air programs report a compliance status of “in compliance” during the first three calendar quarters while this HPV was unaddressed. The Title V program compliance status code is changed to “emission and procedural violation” starting with the July through September 2008 calendar quarter. • Trombley Industries (Caribou, ME) – A review of the OTIS Detailed Facility Report for this source indicates that the MEDEP issued the facility a Notice of Violation on November 5, 2008 and a Consent Agreement on April 16, 2009; however, the OTIS “Three Year Compliance Status by Quarter” data reports that the facility was in compliance during the entire period when MEDEP was pursuing enforcement against the source. (This facility is classified as a federally-reportable minor source.) In addition, the preliminary data analysis indicates that there are two stack tests, both conducted at Ecomaine of Portland, ME in October of 2008, where a result code of “pass” or “fail” has yet to be entered in AFS/OTIS. EPA requests that MEDEP enter this data. See Elements #2.1 and #2.2 for recommendation regarding data accuracy, especially as it relates to compliance status. Since recommendations were already highlighted under
--	--	---

		Element #2, this Element is considered an “Area for State Attention”.
	Metric(s) and Quantitative Value	Based on the preliminary data analysis, 3 out of a total of 5, or 60%, of failed stack tests were showing an inconsistent compliance status in OTIS. Based on the preliminary data analysis, 2 out of a total of 68, or 2.94%, of stack tests conducted did not have a “pass/fail” result entered in AFS/OTIS. As already reported in Element #2, 6 out of a total of 18 files and associated OTIS Detailed Facility Reports reviewed, or 33.33%, had compliance status inconsistencies. A07C1S - Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY) - 23.4% A07C2S - Percent facilities that have had a failed stack test and have noncompliance status (1 FY) - 40.0% A07C2E - Percent facilities that have had a failed stack test and have noncompliance status (1 FY) - 0.0% Metric 7a - % of CMRs or facility files reviewed that led to accurate compliance determinations - 100% Metric 7b - % of non-HPVs reviewed where the compliance determination was timely reported to AFS - 81.82%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
8.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP accurately identifies HPVs; however, HPVs are not entered in AFS in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Based on EPA’s review of 7 case files pertaining to HPVs (4 identified as HPVs in FFY 2009 (F.R Carroll, Harry C. Crooker & Sons, Huber Engineered Wood, and Mid Maine Waste Action Corp.); 2 identified as HPVs in FFY 2008 (Husson College and Madison Paper); and, 1 identified as an HPV in 2010 (Domtar Corp.)) EPA determined that MEDEP is very capable of making accurate compliance determinations; however, due to data problems already discussed in Elements #1 and #3, HPVs are not being reported into AFS/OTIS in a timely manner. MEDEP enters HPV enforcement data into its AECTS data system. The data is then transformed and transmitted to AFS by a software package known as a data translator or universal interface. The data translator is a customized system created by EPA specifically for MEDEP ACETS data. Data translators reduce errors and improve

		efficiency by eliminating the need for state staff to enter data twice, once to the state system and again to EPA's system. Data translators are owned and managed by EPA. During FFY 2009, MEDEP made EPA aware of the issues it was having entering HPV data into EPA's AFS database. During this time period, MEDEP was experiencing issues with the "Universal Interface" that is needed to upload data, such as HPV data, from MEDEP's AECTS database to EPA's AFS database. In the past, MEDEP had sought help from EPA's AFS hotline to resolve the issue; unfortunately, MEDEP continued to have problems uploading data. To resolve the issue, in June 2010, MEDEP and EPA mutually agreed that EPA would resume responsibility for entering HPV information into AFS. This and the monthly HPV discussions between MEDEP and EPA will resolve this issue. Based on the above, EPA has determined that MEDEP is currently meeting this SRF Program requirement.
	Metric(s) and Quantitative Value	The percent of HPVs where HPV data was entered into AFS in a timely manner was 0.0%. The Clean Air Act (CAA) data metrics (preliminary data analysis) indicates that HPV data was entered into AFS in a timely manner for 0 out of 3 identified HPVs. Also, there were an additional three HPVs that were identified in FFY 2009 that were not entered into AFS until June 9, 2010. A08A0S - High Priority Violation Discovery Rate - Per Major Source (1 FY) - 0.0% A08A0E - High Priority Violation Discovery Rate - Per Major Source (1 FY) - 0.0% A08B0S - High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) - 1.7% A08B0E - High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY) - 0.0% A08C0S - Percent Formal Actions With Prior HPV - Majors (1 FY) - 100.0% A08D0S - Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY) - 100.0% A08E0S - Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY) - 20.0% Metric 8h - % of violations in files reviewed that were accurately determined to be HPV - 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
9.1	Is this finding a(n) (select one):	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP always seeks corrective action (injunctive relief or other complying actions), in its informal and, when necessary, its formal enforcement actions. The enforcement actions include clear and concise descriptions of the injunctive relief necessary and a timeframe for

		achieving compliance so that facilities with violations return to compliance expeditiously.
Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)		MEDEP always seeks corrective action (injunctive relief or other complying actions), in its informal and, when necessary, its formal enforcement actions. The enforcement actions include clear and concise descriptions of the injunctive relief necessary and a timeframe for achieving compliance so that facilities with violations return to compliance expeditiously. In order to expedite early, rapid identification of violations and return to compliance MEDEP has formed a Non Compliance Review Committee (NCRC) made up of inspectors, enforcement staff, and licensing staff that typically meets every other month to discuss various issues such as violations found by inspectors, the severity of violations, the need for formal enforcement, and license language with regards to enforceability. MEDEP's Compliance and Enforcement Policy stipulates that all violations found during inspections and investigations will result in a Letter of Warning (LOW) within two weeks after completing the inspection or investigation. This LOW acts as MEDEP's early warning notice and expedites a violator's return to compliance. MEDEP compliance and enforcement staff informed EPA that in most cases where a Notice of Violation (NOV) is issued or further formal enforcement is taken, a violator has already returned to compliance prior to the issuance of these actions, due to the LOW system instituted by MEDEP. Of the 9 enforcement files reviewed as part of this SRF review where formal enforcement had been taken, a total of 7 enforcement files (Domtar Corp., Huber Engineered Wood, Husson College, Madison Paper, Mid Maine Waste Action Corp., Pleasant River Lumber, and Trombley Industries) indicated that the sources had returned to compliance prior to the formal enforcement actions (Administrative Consent Agreements) being taken. This is a result of MEDEP's early warning notice program. For the remaining 2 enforcement files reviewed (F.R. Carroll and Harry C. Crooker), where the sources had not yet returned to compliance prior to issuance of the Administrative Consent Agreements, the Consent Agreements included the actions the sources needed to take to return to compliance along with appropriate timeframes in which to take such actions. MEDEPs continued use of the NCRC and its implementation of the Compliance and Enforcement Policy results in a consistently faster return to compliance, as well as a return to compliance prior to the need for any formal enforcement action.
Metric(s) and Quantitative Value		Of the 9 enforcement files reviewed, a total of 9 enforcement files, or 100%, included informal and, when necessary, formal enforcement actions that described the corrective actions needed for a violating source to return to compliance, along with appropriate timeframes for returning to compliance. Of the 9 enforcement files reviewed, a total of 7 enforcement files, or 77.78%, indicated that the sources had returned to compliance prior to the issuance of formal enforcement actions. Metric 9a - # of formal and informal enforcement responses reviewed - 18 Metric 9b - % of formal enforcement responses that have returned or will return a source to physical compliance - 100%
State Response		

	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	
--	--	--

[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.

10.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	MEDEP did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	MEDEP was found to always take appropriate enforcement once violations were identified; however, for the review period, MEDEP did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document. In 4 out of the 7 enforcement files reviewed for HPVs (note that Pleasant River Lumber and Trombley Industries were not classified as HPVs so that the "Timely and Appropriate" requirements do not apply to these two sources), MEDEP did not address the violations within 270 days of the violation discovery date ("Day 0"). Specifically, MEDEP did not address the violations occurring at Domtar Corporation (this was actually a FFY 2010 HPV; however, since the violations occurred in FFY 2009 it was included as part of this review), Huber Engineered Wood, Madison Paper (this was actually a FFY 2008 HPV; however, since the resolving action (Administrative Consent Agreement) occurred in FFY 2009, it was included as part of this review), and Mid Maine Waste Action Corporation. The addressing and resolving actions for Domtar Corporation, Huber Engineered Wood, Madison Paper, and Mid Maine Waste Action Corporation occurred approximately 394, 309, 494, and 461 days after "Day 0", respectively. In discussing the four sources with untimely formal (addressing) enforcement actions, MEDEP informed EPA of the following: • Domtar Corp. - The "Day 0" or discovery date of violation for this source was October 19, 2009. MEDEP issued the facility an informal NOV for the HPV violations on January 4, 2010 (approximately 70 days after "Day 0"). MEDEP issued the facility a formal Administrative Consent Agreement on November 18, 2010 that addressed and resolved the HPV violations (approximately 394 days after "Day 0"). Domtar shut down for three months between the time that the NOV and Consent Agreement were issued, during which MEDEP did not pursue formal enforcement. Once Domtar started up operation again, MEDEP re-prioritized the facility for formal enforcement. In addition, since Domtar is a facility equipped with continuous emission monitors (CEMs), it is MEDEP's policy to conduct an extensive review of CEM records to determine whether any other violations have occurred within the past five years. In cases such as Domtar, when additional violations are found based on the CEM review, MEDEP includes these additional violation counts in the formal enforcement actions (Administrative Consent Agreements) it issues pursuant to the original HPV violations(s) rather than issue separate enforcement actions for the subsequent violations. The time to conduct an extensive CEM review and develop further violation counts can be considerable such that the formal (addressing and/or resolving) enforcement action is not issued in a timely manner compared to the

	original HPV discovery date. Huber Engineered Wood – The “Day 0” or discovery date of violation for this source was April 29, 2009. MEDEP issued the facility an informal NOV for the HPV violations on August 11, 2009 (approximately 104 days after “Day 0”). MEDEP issued the facility a formal Administrative Consent Agreement on March 4, 2010 that addressed and resolved the HPV violations (approximately 309 days after “Day 0”). MEDEP indicated that the formal enforcement action was tardy in this case due to the fact that MEDEP gave the source considerable time to submit an approvable supplemental environmental project (SEP) that needed to be incorporated into the formal enforcement action (Administrative Consent Agreement). Madison Paper - The “Day 0” or discovery date of violation for this source was November 9, 2007. MEDEP issued the facility an informal NOV for the HPV violations on June 2, 2008 (approximately 208 days after “Day 0”). MEDEP issued the facility a formal Administrative Consent Agreement on March 19, 2009 that addressed and resolved the HPV violations (approximately 494 days after “Day 0”). Madison Paper is equipped with continuous emission monitors for opacity. MEDEP determined that the opacity monitors at Madison were not keeping an accurate record of the opacity measurements. The date of discovery of the HPV violations was based on the date MEDEP determined the opacity monitors were “out of control”. However, rather than issuing a formal, addressing action (Administrative Consent Agreement) only for the “out of control” monitors, MEDEP decided to investigate by other means (opacity strip charts) whether there were opacity exceedances as well. It took a considerable amount of time to obtain the opacity strip charts from the source and to review the data to determine how many opacity exceedances occurred over the past five year period (opacity limits are based on six-minute block averages.) Mid Maine Waste Action Corp. - The “Day 0” or discovery date of violation for this source was November 27, 2008. MEDEP issued the facility an informal NOV for the HPV violations on March 25, 2009 (approximately 117 days after “Day 0”). MEDEP issued the facility a formal Administrative Consent Agreement on March 4, 2010 that addressed and resolved the HPV violations (approximately 461 days after “Day 0”). The violation was based on a “failed” stack test for dioxin/furans. In this case, MEDEP indicated that they requested additional data from the source regarding the “failed” stack test and that they spent considerable time reviewing the additional data. Based on the above, it appears that MEDEP is, in some cases, allowing an HPV source too much time to submit an approvable SEP that is resulting in the untimely issuance of formal (addressing and resolving) enforcement actions (Administrative Consent Agreements). In addition, it appears that MEDEP is hesitant to identify additional or subsequent HPV discovery dates, or “Day 0s” for a given HPV source once additional violations are discovered based on MEDEP due diligence that entails further investigation into an HPV source to determine whether additional violations exist based on CEM data, or other data. In addition, it appears that MEDEP is hesitant to issue numerous, formal enforcement actions for a given HPV source once additional violations are discovered and prefers to hold up the initial, formal enforcement action until such time that all the original and additional violations discovered for a given HPV are fully documented and supported and can be incorporated into one formal enforcement action. MEDEP’s rationale for limiting the number of formal enforcement actions it issues to a given HPV source is limited resources. MEDEP has only two persons on their CAA enforcement staff; as such, MEDEP needs to streamline how they process enforcement actions.
Metric(s) and	A total of 4 out of the 7 enforcement case files reviewed for HPVs, or 57.14%, indicated

	Quantitative Value	that the MEDEP had not addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA's "Timely and Appropriate" guidance. A total of 3 out of the 7 enforcement case files reviewed for HPVs, or 42.86%, were addressed within the required 270 day time frame. A total of 5 out of the 9 enforcement case files reviewed (HPV and non-HPV), or 55.56%, were addressed within 270 days of the violation discovery date. A10A0S - Percent HPVs not meeting timeliness goals (2 FY) - 58.3% Metric 10e - % of HPVs reviewed that are addressed in a timely manner - 42.86% Metric 10f - % of enforcement responses reviewed at HPVs that are appropriate. The number of appropriately addressed HPVs over the number of HPVs addressed during the review year - 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	EPA recommends that MEDEP implement a policy that provides HPV violators a thirty (30) day timeframe to submit an approvable SEP. If such an SEP proposal is not submitted within this time frame, MEDEP should seek only a "cash" payment for the assessed penalty to ensure that timely enforcement is taken. Monthly HPV discussions between EPA and MEDEP will be used to ensure that this recommendation is acted on.

[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.

10.2	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	MEDEP did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	See the Explanation Section of Element #10.1.
	Metric(s) and Quantitative Value	See the Metric(s) and Qualitative Value Section of Element #10.1.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	EPA recommends that when MEDEP conducts a further investigation into a newly identified HPV source. Any resulting, additional violations should be given separate and distinct violation discovery dates ("Day 0s".) MEDEP's decision as to whether one or more formal enforcement (addressing and resolving) actions are needed to address the original HPV violation(s) and any additional violations discovered should take into account EPA's "Timely and Appropriate" Guidance to ensure that such actions are taken within 270 days of each HPV discovery date ("Day 0"). Monthly HPV discussions between EPA and MEDEP will be used to ensure that these recommendations are acted on.

--	--	--

[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.		
11.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP calculates the gravity portion of a penalty correctly, based on their penalty matrix worksheet. There were no instances in the 9 enforcement-related files reviewed as part of this SRF review where the economic benefit portion of the penalty would have been over the significance threshold of \$5000.00. As such, MEDEP did not assess any economic benefit penalty in any of the 9 enforcement case files reviewed.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	All 9 enforcement files reviewed by EPA included actions where penalties were sought and obtained. Each of the 9 enforcement case files included the calculations for assessing the gravity portions of the penalties. MEDEP is using their penalty matrix worksheet consistently to ensure that they are assessing appropriate gravity penalties. MEDEP did not assess any economic benefit in any of the 9 enforcement files reviewed because the nature of the violations were such that the MEDEP determined that there was no significant economic benefit (\$5000.00 or more) gained from the violations. EPA's CAA Stationary Source Civil Penalty Policy (October 25, 1991) discusses in Section II, Paragraph A.3.a. entitled "Adjusting the Economic Benefit Component" that the litigation team has the discretion not to seek the economic benefit component of a penalty where it is less than \$5000.00, especially if there will not be a noticeable effect on the violator's competitive position or overall profits. Most of the violations were for things such as sporadic CEM pollutant exceedances; CEM monitor downtime; "failed" stack tests where retests demonstrating compliance occurred expeditiously (within 1 to 2 months) and required just minor adjustments to the applicable process and/or control equipment; recordkeeping and reporting; and, failure to conduct "Visible Emission" readings. There was no information in the file indicating MEDEP's rationale for not seeking economic benefit. For instance, there was nothing in the file that indicated that there was no economic benefit associated with the given violation(s) or that the economic benefit was insignificant – less than \$5,000. However, the MEDEP's Bureau of Air Quality Monetary Penalty Calculation Guidance Worksheet does include, within a table, a line item that discusses penalty adjustment factors used for "Financial Gain". During the EPA file review portion of this SRF that occurred at the MEDEP offices in July 2010, EPA recommended that MEDEP begin documenting, in writing, for all enforcement cases, that economic benefit was considered and make a note when MEDEP determined that the economic benefit was considered insignificant (less than \$5000.00). In recent discussions between MEDEP and EPA on this issue, MEDEP reported that it now has a cover sheet that goes with its penalty worksheet that documents, in writing, that economic benefit was considered. In discussing with MEDEP the need to provide a rationale for not seeking economic benefit in the file for a particular case, EPA requested that, at a minimum, MEDEP complete the

		“Financial Gain” portion of the penalty worksheet for all HPV sources that provides a short description or rationale for not seeking such a penalty. MEDEP agreed to do this in the future.
	Metric(s) and Quantitative Value	A total of 9 out of 9 enforcement case files reviewed, or 100%, included actions where penalties were sought and obtained. A total of 9 out of 9 enforcement files reviewed, or 100%, included actions where the gravity portion of a penalty was properly calculated using the MEDEP penalty worksheet. A total of 0 out of 9 enforcement case files reviewed, or 0%, required the assessment of an economic benefit penalty because such a penalty was considered insignificant (less than \$5,000). Metric 11a - % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit - 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
12.1	Is this finding a(n) (select one):	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP is seeking and collecting appropriate penalties and their enforcement case files thoroughly document their rationale for reducing a penalty. In addition, all applicable enforcement case files reviewed included copies of penalty checks indicating that all penalties had been paid in full.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Of the 9 enforcement case files reviewed where a penalty was assessed, 3 of the facilities settled with no reduction in penalty and 6 facilities negotiated a penalty reduction. All 5 enforcement case files reviewed, for facilities where the final penalty was reduced, included penalty reduction memos describing MEDEP’s rationale for reducing its proposed penalty. (Please note that at the time of the SRF file review the case against Domtar Corp. had yet to settle so there was no penalty reduction memo to review.) For each of the 8 enforcement case files reviewed where a penalty was collected prior to the SRF file review (the penalty payment for Domtar Corp. wasn’t collected until after the SRF file review), a copy of the penalty check was included in the case file that indicated that the penalty had been paid in full. Since the file review, MEDEP did issue a final Consent Agreement to Domtar Corp. and collected a penalty of \$52,000. The data metrics indicate that MEDEP is seeking penalties 100% of the time in its formal

		enforcement actions against HPVs.
	Metric(s) and Quantitative Value	Penalties have been collected from 9 out of a total of 9 facilities, or 100%, whose enforcement case files were reviewed. Memos pertaining to penalty reduction/mitigation were found in 5 out of a total of 5 applicable enforcement files reviewed, or 100%. (Again, note that the case against Domtar Corp. wasn't settled prior to the SRF file review so there was no penalty reduction memo to review for this source.) A total of 3 out of 9 facilities, or 33.3%, settled without a reduction in the proposed penalty. A total of 6 out of 9 facilities, or 66.7%, negotiated a reduced penalty during the settlement process. Copies of penalty checks were found in 8 out of a total of 8 enforcement files reviewed, or 100%, where enforcement was completed (enforcement was still underway for Domtar Corp. during the SRF file review). A12A0S - No Activity Indicator - Actions with Penalties (1 FY) - 10 A12B0S - Percent Actions at HPVs With Penalty (1 FY) - 100.0% Metric 12a - % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty - 100% Metric 12b - % of files that document collection of penalty - 100%
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

Clean Water Act

CWA/NPDES Findings

[CWA] Element 1 – Data Completeness - Degree to which the Minimum Data Requirements are complete.		
1.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	Data system does not contain formal enforcement actions or penalties collected
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The initial review of the MEDEP data pulled from the national data base, did not contain information relevant to the number of formal enforcement actions taken at major or minor facilities nor did it contain information relating to the penalties collected from enforcement actions taken by the MEDEP. The MEDEP had this information in their files and provided it to the reviewer. This information needs to be entered into the national data system
	Metric(s) and Quantitative Value	1f and 1g MEDEP provided the following data: 18 informal actions at major facilities, 40 informal actions at minor facilities 1 formal action at a major facility 3 formal actions at minor facilities 4 penalty actions taken for a total of \$44,60 Data Metrics W01A1C to W01G5E – See Appendix D
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	- By the end of Fiscal Year 2012 MEDEP will migrate their data from PCS into ICIS. This will include the enforcement and penalty data. By March 1, 2012, develop a Standard Operating Procedure for entering enforcement actions and penalty data into ICIS.
[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.).		
2.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	The data that the MEDEP has entered into the national data system is generally accurate.

	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The data that the MEDEP has entered into the national data system is generally accurate. However, the issues described in Element 1 regarding completeness raise some concern about data accuracy. For example they do enter their inspection numbers. What is in the system is correct but not all of the inspections get entered. The 2009 data pull showed 30 inspections entered into PCS. MEDEP corrected this number to be 56 based on their own tracking system. The 30 originally listed were correct but the additional 26 inspection had not gotten into the system. As the additional inspections are entered, MEDEP should be careful to maintain data accuracy. Since the time of the review MEDEP has added two staff personnel to help with data input and Quality Control.
	Metric(s) and Quantitative Value	W02A0S - Actions linked to violations: major facilities (1 FY) - 0 / 0 Metric 2b - % of files reviewed where data is accurately reflected in the national data system - 33%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 3 - Timeliness of Data Entry - Degree to which the Minimum Data Requirements are timely.		
3.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	DMR data has been having difficulty getting into the state and national system
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Several years ago MEDEP began using a system called EDMR, which allows users to submit their DMR data electronically to the state instead of using paper copies. When the system went into use the MEDEP saw a drastic increase in the number of DMR non receipt issues. The data was being sent in on time but there were several bugs that needed to be worked out such as transferring the data from their own system into EPA's system and issues with getting the data into their own system accurately. The later was the largest problem and much of it had to do with how old permits were coded into their system and how the new permits are written and coded into the system. The MEDEP has made a targeted effort with staff and time to correct these problems. Currently, as of August, 2011, there are two facilities on the watch list for missing DMRs. In March 2008 there were 19 facilities on the watch list for missing DMRs. The MEDEP has added two new staff members to help with this data issue and have made significant strides in solving the problems and reducing the number of facilities on the watch list for DMR non receipt.

		MEDEP is continuing to improve their data collection and transfer and are working towards making the transition from using PCS to ICIS by the end of Fiscal year 2012.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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

.		
4.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP met its CWA commitments for FY 2009
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Per the 2007-2009 performance partnership agreement with the MEDEP the state committed to do 30 compliance evaluation inspections (CEIs) at major sources and 30 CEIs at significant minor sources. The MEDEP has a universe of 85 major facilities and 288 non major facilities. MEDEP conducted 69 CEIs at 56 major facilities and a total of 194 inspections were completed at major facilities. The 194 inspections are made up of CEIs, routine, sampling, compliance assistance and licensing inspections. The MEDEP conducted 28 CEIs at significant minor sources and a total of 204 inspections were completed at minor sources. The 204 inspections are made up of CEIs, routine, sampling, compliance assistance and licensing inspections.
	Metric(s) and Quantitative Value	The MEDEP supplied their inspection records from their data base for both major and minor inspections. Metric 4a - Planned inspections completed - Yes Metric 4b - Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished - 100%
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 5 – Inspection Coverage - Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and State priorities).		
5.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Maine met their inspection commitment
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Maine met and exceeded their inspection commitments in their PPA. Maine conducts compliance evaluation inspections (CEIs) at roughly 65% of all majors each year. The PPA also states that Maine will conduct 30 inspections per year at significant minor facilities. In 2009 Maine conducted CEI inspections at 37 significant minor facilities. Maine has a universe of 85 majors and 288 minor NPDES facilities. In 2009, MEDEP conducted 194 inspections at 71 major facilities and over 300 minor inspections at 180 facilities. Many facilities are inspected several times per year with different types of inspections (CEIs, routine, sampling, compliance assistance, licensing, and enforcement support), but only those that are considered compliance evaluation or sampling inspections are counted under this metric.
	Metric(s) and Quantitative Value	MEDEP conducted CEI inspections at 56 out of 85 major facilities, which is 65% coverage of the majors. The national average is 64%. W05A0S - Inspection coverage: NPDES majors (1 FY) - 35.3% W05A0E - Inspection coverage: NPDES majors (1 FY) - 0.0% W05A0C - Inspection coverage: NPDES majors (1 FY) - 35.3% W05B1S - Inspection coverage: NPDES non-major individual permits (1 FY) - 5.2% W05B1E - Inspection coverage: NPDES non-major individual permits (1 FY) - 0.0% W05B1C - Inspection coverage: NPDES non-major individual permits (1 FY) - 5.2% W05B2S - Inspection coverage: NPDES non-major general permits (1 FY) - 0.0% W05B2E - Inspection coverage: NPDES non-major general permits (1 FY) - 0.0% W05B2C - Inspection coverage: NPDES non-major general permits (1 FY) - 0.0% W05C0S - Inspection coverage: NPDES other (not 5a or 5b) (1 FY) - 0.0% W05C0E - Inspection coverage: NPDES other (not 5a or 5b) (1 FY) - 0.0% W05C0C - Inspection coverage: NPDES other (not 5a or 5b) (1 FY) - 0.0%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.

6.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Attention to detail needed when drafting inspection reports
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	MEDEP inspectors have several types of check lists available to them to use when conducting an inspection. These check lists are very thorough and provide the basis for a sound inspection report. The content of the inspection reports reviewed were excellent. All the reports provided a clear picture of the process, what was looked at, what records were reviewed, what the issues were at the facility, who was spoken to, what the issues were and what needed to be done to correct the problems. However attention to detail needs to be improved. Several items were found missing from almost all reports: signatures, dates when report written, permit #'s, contact info, time of inspection, purpose of inspection. In August 2010 the MEDEP conducted training with their inspectors in order to improve their attention to detail while writing their inspection reports.
	Metric(s) and Quantitative Value	Metric 6a - # of inspection reports reviewed - 19 Metric 6b - % of inspection reports reviewed that are complete - 0% Metric 6c - % of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination - 68% Metric 6d - % of inspection reports reviewed that are timely - 68%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

7.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Large number of facilities with DMR violations
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	During FY 2009 MEDEP has had an unusually high number of facilities on the watch list and in SNC for DMR non receipt. In January 2009 there were 22 facilities in SNC for missing DMRs. By October 2009 there were 15 facilities on the Watch List for missing DMRs. There have been several reasons for this, a new EDMR system, problems interfacing with PCS system, permits coded correctly or incorrectly for the EDMR system, in house IT support and staffing levels. The DMR issue is data that is not entered into the system(s). It is not that MEDEP does not receive it from facilities submitting the DMRs by paper. MEDEP has made advances on fixing these problems and has added two new staff to help rectify the problems. The most current watch list which is August 2011 has 6 facilities listed. Two are for DMR non receipt, two for effluent violations and two for missing reports.
	Metric(s) and Quantitative Value	The original data pull from ICIS showed Maine having 50 out of 85 facilities with missing DMRs (58.8 % of the total). Maine corrected this data based on their records to show that 41 facilities were missing DMRs (48.2% of the total). The national average is 53.2%. With all the work Maine has done to correct their DMR problems they will be well below the national average based on just 2 or 3 facilities on the watch list per quarter. W07A1C - Single-event violations at majors (1 FY) - 0 W07A2C - Single-event violations at non-majors (1 FY) - 0 W07B0C - Facilities with unresolved compliance schedule violations (at end of FY) - 50.0% W07C0C - Facilities with unresolved permit schedule violations (at end of FY) - 6.5% W07D0C - Percentage major facilities with DMR violations (1 FY) - 58.8% Metric 7e - % of inspection reports or facility files reviewed that led to accurate compliance determinations - 86%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] 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.		
8.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	Single event violations are identified but not entered into a data base.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	During inspections inspectors routinely identify single event violations (SEV) and document them in their inspection reports. The Inspectors follow-up every inspection with a cover letter and a copy of the inspection report which documents the SEV's and ask for corrective action to be taken. Of the 5 single event violations identified in the inspection reports none were SNC. The region reviewed the single event violations and agrees with conclusions drawn by the state inspectors. None of the single event violations were identified as SNC therefore none needed to be reported into the data system.
	Metric(s) and Quantitative Value	W08A1C - Major facilities in SNC (1 FY) - 28 W08A2C - SNC rate: percent majors in SNC (1 FY) - 32.9% Metric 8b - % of single event violation(s) that are accurately identified as SNC - /5/5 or 100% Metric 8c - % of single event violation(s) identified as SNC that are reported timely - 5/5 or 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By August 1, 2012, develop a policy for entering SEV's that are identified as SNC at NPDES majors.

[CWA] Element 9 - Enforcement Actions Promote Return to Compliance - Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
9.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	Actions taken are appropriate to return facilities into compliance.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	Of the twenty enforcement files reviewed there were four letters of warning, 9 notices of violation, one administrative consent agreement and one consent decree issued. These actions returned the violating facilities back into compliance.
	Metric(s) and Quantitative Value	Metric 9a - # of enforcement files reviewed - 16 Metric 9b - % of enforcement responses that have returned or will return a source in SNC to compliance - 100% Metric 9c - % of enforcement responses that have returned or will returned a source with

		non-SNC violations to compliance - 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
10.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	One enforcement action reviewed was not timely and one action not appropriate
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The town of Eastport had overdue DMRs for the months of May through December, 2008. A NOV was not issued until January 2009. EPA feels that the NOV should have been issued sooner before 8 months of DMR non receipt transpired. The following two cases resulted in unlicensed discharges to a river. The Twins Rivers Paper Mill had a spill of roughly 4000 gallons of latex into a river and received a NOV and Consent Agreement with a penalty. The Myllykoski North America paper mill spilled 10,000 lbs of wood pulp into a river and received a NOV. Both were unlicensed discharges. EPA could find nothing in the file of the Myllykoski North America file as to why this event did not warrant a similar penalty or no penalty at all.
	Metric(s) and Quantitative Value	W10A0C - Major facilities without timely action (1 FY) - 41.2% Metric 10b - % of enforcement responses reviewed that address SNC that are taken in a timely manner - 88% Metric 10c - % of enforcement responses reviewed that address SNC that are appropriate to the violations - 88% Metric 10d - % of enforcement responses reviewed that appropriately address non-SNC violations - 100% Metric 10e - % enforcement responses for non-SNC violations where a response was taken in a timely manner - 66%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[CWA] Element 11 - Penalty Calculation Method - Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.		
11.1	Is this finding a(n) (select one):	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement (Recommendation Required)
	Finding	MEDEP documented gravity and Ben calculations and provided reasons for each.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	In the enforcement files reviewed MEDEP documented the economic benefit and gravity portion of the penalty. If a particular case did not have an economic benefit component it was explained in the case file why no economic benefit was derived from the violation. In one case Contract Farming of Maine the MEDEP used EPA's BEN model to calculate economic benefit. Where appropriate MEDEP should continue to use the BEN model.
	Metric(s) and Quantitative Value	Metric 11a - % of penalty calculations that consider and include where appropriate gravity and economic benefit - 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

[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.		
12.1	Is this finding a(n) (select one):	☐ Good Practice ☐ Meets SRF Program Requirements Area for State Attention ☒ Area for State Improvement (Recommendation Required)
	Finding	MEDEP should provide better documentation needed of final penalty amount.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	In the enforcement cases reviewed the penalty was adjusted down from its initial amount. The files did not contain a justification /explanation for the penalty change. MEDEP does not have the authority to issue a unilateral penalty order. Instead their penalties are negotiated with the violating party. Prior to issuing a penalty the consent agreement and penalty is sent to the ME Attorney General's office for review. After this review the MEDEP staff and the violator negotiate the final penalty. For the most part the AG's office is not involved. Once a final penalty and if done SEP are worked out the agreement goes back to the AGs office for approval. The documentation on the negotiation of the penalty is found in letters and emails from MEDEP staff and the violating facility. This information should be in the file but was not in the files EPA reviewed. After discussing this with the MEDEP it was said that this information is usually in the file but not summarized in a single document.
	Metric(s) and Quantitative Value	Metric 12a - % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty - 0% Metric 12b - % of enforcement actions with penalties that document collection of penalty - 100%
	State's Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By March 1, 2012 develop a standard operating procedure to document the penalty reduction in a single document to be included in the file when required.

Resource Conservation and Recovery Act

Element 1 — Data Completeness: Degree to which the Minimum Data Requirements are complete.		
1-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements ☒ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	During the PDA, no significant issues were raised related to the accuracy and the completeness of the Official Data Set.
	Explanation	The HWCE allocates a substantial amount of their inspection and enforcement resources to conducting inspections at facilities that do not have EPA ID numbers, and are not required to notify EPA or Maine of their hazardous waste activities (i.e., Small Quantity Generators and other non-notifier facilities). (Note that Maine SQGs by definition would be characterized Federally as Conditionally Exempt Small Quantity Generators or CESQGs.) Therefore, the RCRIS national database does not accurately reflect the full range of the HWCE's inspection and enforcement activities. The HWCE maintains an additional internally developed database that summarizes all of their inspection activity. This information was provided and reviewed and completely reflects all of the hazardous waste inspection activity completed by the HWCE in Maine.
	Metric(s) and Quantitative Value(s)	Data Metrics R01A1S to R01G0E – See Appendix D
	State Response	
	Recommendation(s)	

Element 2 — Data Accuracy: Degree to which data reported in the national system is accurately entered and maintained.		
2-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement – Recommendations Required

	Finding	The HWCE needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database.
	Explanation	Thirteen files were selected and reviewed including the inspection reports and associated enforcement actions; of the 13 files selected, twelve were facilities with EPA ID numbers. Each of these inspections was properly reported into the national RCRIS database. At the time of the file review, two of the facilities that had SNC type violations had not been reported as SNCs in the national RCRIS database (Praxair Surface Technologies, Spray Maine, Inc.). In each of the other files reviewed with SNC determinations, (Modern Woodcrafts, Saunder Brothers, Northeast Packaging, Enpro, and Southern Maine Medical Center), the HWCE accurately reported the SNC classification into the national RCRIS database. In the cases of Praxair Surface Technologies and Spray Maine, Inc., the HWCE explained that each facility had been evaluated and determined to be a SNC in their enforcement decision document, but the information was not properly reported into the RCRIS national database. The HWCE immediately corrected both instances after being made aware of this oversight.
	Metric(s) and Quantitative Value(s)	Of the 13 files selected, twelve were facilities with EPA ID numbers. Each inspection was reported into the national RCRIS database (100%). Two facilities that had been determined to be SNCs (Praxair Surface Technologies, Spray Maine, Inc.) were not properly reported as SNCs into the national RCRIS - database (16.6%). R02A1S - Number of sites SNC-determined on day of formal action (1 FY) - 1 R02A2S - Number of sites SNC-determined within one week of formal action (1 FY) - 0 R02B0S - Number of sites in violation for greater than 240 days - 15 R02B0E - Number of sites in violation for greater than 240 days - 1 Metric 2c - % of files reviewed where mandatory data are accurately reflected in the national data system. - 92%
	State Response	
	Recommendation	By September 30, 2012, develop a system that periodically reviews RCRIS to determine the accuracy of data elements that must be reported into the national database.

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

3-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement – Recommendations Required
	Finding	The HWCE needs to make sure that SNC determinations are consistently being accurately reported into the national RCRIS database, at or near the time that the program makes the SNC determination.

	Explanation	Thirteen files were selected and reviewed; of the 13 files selected, twelve were facilities with EPA ID numbers and were therefore in the national RCRIS database. As already discussed above in Element 2, two of the facilities that had SNC type violations had not been reported as SNCs in the national RCRIS database (Praxair Surface Technologies, Spray Maine, Inc.), and therefore, the SNC determinations were not timely. These two failures were immediately corrected when the HWCE was made aware of the oversight during this SRF process. Generally, the HWCE makes their SNC determinations shortly after issuing the NOV and promptly reports into the national RCRIS database with the NOV date being the date of the SNC determination. In both instances of reporting failures discussed above, the HWCE explained that each facility had been evaluated and determined to be a SNC in their enforcement decision document shortly issuing the NOV, but that information was not properly reported into the RCRIS national database. The HWCE immediately corrected both instances after being made aware of this oversight.
	Metric(s) and Quantitative Value(s)	Twelve files for facilities with EPA ID numbers were reviewed. Ten of these files had timely reporting. As previously stated in Element 2, two facilities did not have SNC determinations reported into the RCRIS national database despite being characterized as SNCs in their internal enforcement decision documents (Praxair Surface Technologies, Spray Maine, Inc.) Generally, the HWCE completes their SNC determinations shortly after completing the inspection. R03A0S - Percent SNCs entered more than 60 days after designation (1 FY) - 0.0% R03A0E - Percent SNCs entered more than 60 days after designation (1 FY) - 100.0%
	State Response	
	Recommendation(s)	By September 30, 2012, develop a written standard operating procedure to insure that ▪ MEDEP periodically reviews RCRIS to determine the timeliness of data elements that must be reported into the RCRAInfo, and, ▪ that the actual dates of SNCs are entered correctly.

Element 4 — Completion of Commitments: Degree to which all enforcement/compliance commitments in relevant agreements are met and any products or projects are completed.

4-1	This finding is a(n)	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	The HWCE completed 108 inspections in FFY09 or 150% of their grant commitment
	Explanation	Planned commitments for the RCRA program in Maine include only the inspection requirements. The HWCE's FFY09 grant commitments required them to complete the following inspections: 2-TSDs 2-universal waste/transporters

		14-LQGs 10-100-1000 kg/month generators 10-non notifier inspections 1-Land Disposal facility 2-habitual violator/follow-up 1-hazardous waste transporter 30-complaint The HWCE has been able to consistently fulfill and go above and beyond its grant commitments despite grant monies that have dropped or remained level since 1997. As an additional challenge, the HWCE presently has to achieve its current commitments despite having 20 furlough/shutdown days between FY 2009-2011.
	Metric(s) and Quantitative Value(s)	108/72 or 150% of FFY09 grant commitment Metric 4a - Planned inspections completed - 150% Metric 4b - Planned commitments completed -
	State Response	
	Recommendation(s)	

Element 5 — Inspection Coverage: Degree to which state completed the universe of planned inspections/compliance evaluations.

5-1	This finding is a(n)	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	The HWCE consistently plans to complete necessary inspections at the full range of hazardous waste generators in their universe. Maine consistently meets and exceeds their planned inspection commitments.
	Explanation	Planned commitments for the RCRA program in Maine include only the inspection requirements. The HWCE's FFY09 grant commitments required them to complete the following inspections (# completed is in parentheses in bold): 2-TSDs (1) 2-universal waste/transporters (4) 14-LQGs (14) 10-100-1000 kg/month generators (27) 10-non notifier inspections (28) 1-Land Disposal facility (1) 2-habitual violator/follow-up (4) 1-hazardous waste transporter (1) 30-complaint (28) The HWCE allocates a substantial amount of their inspection and enforcement resources to

		conducting inspections at facilities that do not have EPA ID numbers, and are not required to notify EPA or Maine of their hazardous waste activities (i.e., Small Quantity Generators and citizen complaints and other non-notifier facilities). The inspections are therefore not accounted for in the national RCRIS database. The HWCE consistently not only fulfills, but exceeds its inspection requirements. Historically, EPA Region 1 partners with Maine to complete the TSD inspections, which includes two facilities, ENPRO and Portsmouth Naval Shipyard. During FFY09, the TSD universe was not completed during the 12 months of the fiscal year, because the Portsmouth Naval Shipyard inspection was delayed slightly until the beginning of FFY10 (12/1/09). There is a national goal of inspecting 20% of Maine's LQGs each year so that the entire universe is inspected over a five year period. During the PDA, the HWCE explained that they have done a thorough evaluation of their LQG universe and determined that a number of the facilities are no longer active. Therefore have no hazardous waste, or are closed and/or are active remediation projects, and only generated remediation waste, and are not good inspection candidates. Other sites are not good inspection candidates because they are episodic hazardous waste generators, and therefore do not routinely generate any hazardous waste, such as the State's bridges, which only generate hazardous waste during active stripping/painting operations. The HWCE has explained what they view as being the active LQG universe in Maine and the differences with the LQGs in the RCRIS national database. The HWCE uses data from the latest biennial report as well as data from RCRIS to attempt to determine what their <u>active</u> LQG universe is, and believes it is a better method to determine how to spend their inspection resources.
	Metric(s) and Quantitative Value(s)	The HWCE completed 108 inspections in FFY09 or 150% of their grant commitment. R05A0S - Inspection coverage for operating TSDFs (2 FYs) - 50.0% R05A0C - Inspection coverage for operating TSDFs (2 FYs) - 100.0% R05B0S - Inspection coverage for LQGs (1 FY) - 10.9% R05B0C - Inspection coverage for LQGs (1 FY) - 12.5% R05C0S - Inspection coverage for LQGs (5 FYs) - 67.2% R05C0C - Inspection coverage for LQGs (5 FYs) - 73.4% R05D0S - Inspection coverage for active SQGs (5 FYs) - 13.8% R05D0C - Inspection coverage for active SQGs (5 FYs) - 14.3% R05E1S - Inspections at active CESQGs (5 FYs) - 42 R05E1C - Inspections at active CESQGs (5 FYs) - 45 R05E2S - Inspections at active transporters (5 FYs) - 11 R05E2C - Inspections at active transporters (5 FYs) - 13 R05E3S - Inspections at non-notifiers (5 FYs) - 0 R05E3C - Inspections at non-notifiers (5 FYs) - 0 R05E4S - Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs) - 6 R05E4C - Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs) - 6
	State Response	
	Recommendation(s)	

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

6-1	This finding is a(n)	☒ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	HWCE consistently generates timely inspection reports that are of excellent quality and accurately describe and document relevant observations made during the inspection.
	Explanation	Eighteen inspection reports for the thirteen facilities selected were reviewed. The files selected reflect the full range of RCRA facilities and the associated enforcement responses available to the HWCE. The reviewed inspection reports are developed contemporaneously, generally shortly after the inspection is completed. Reviewed inspection reports sufficiently document observations and include checklists, narratives, drawings, sufficient information on documents reviewed, photographic evidence and a summary of issues discussed at the end of the inspection between inspectors and the facility contacts. The reviewed reports allow the reader that is not familiar with the facility to understand the observations made during the inspection and the areas within the facility that were inspected including a general explanation on the processes occurring at the facility. The HWCE's inspection report writing and timeliness is one of the greatest strengths of its program. Reports are of high quality and typically include the right amount of detail to document violations and to explain the production process employed at the facility being inspected.
	Metric(s) and Quantitative Value(s)	18/18 reviewed inspection reports (100%) were high quality and comprehensive reports. Trip reports reviewed were completed as soon as 7 days after the inspection, and averaged a completion date of 37 days after the inspection was completed. Metric 6a - # of inspection reports reviewed. – 18 Metric 6b - % of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility. - 100% Metric 6c - Inspections reports completed within a determined time frame. - 100%
	State Response	
	Recommendation(s)	

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.

7-1	This finding is a(n)	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
-----	----------------------	---

	Finding	Based on inspection reports reviewed, the HWCE is effectively documenting violations during inspections and reporting and tracking them in the national RCRIS database.
	Explanation	As previously explained in Elements 2 & 3, thirteen files were selected and reviewed. In all selected files for review, the HWCE found violations in the facility's operations during their completed CEI and documented the violations in the national RCRIS database. Of these files, six facilities included enforcement beyond issuing a Notice of Violation. Four of these six enforcement actions adequately identified, documented, and reported the observed violations and tracked them appropriately in the national RCRIS database. As previously explained, two of these facilities (Praxair Surface Technology and Spray Maine, Inc.) did not have SNC determinations reported accurately into the national RCRIS database, despite being classified as SNCs in Maine's internal enforcement decision document. Maine recognized that these facilities violations warranted a classification as a SNC, but failed to accurately report it into the national RCRIS database. Of the remaining non-formal actions, a review of the trip reports suggests that violations were appropriately identified. Enforcement actions were timely and appropriate under the HWCE's Enforcement Response Policy. The violations were properly reported and tracked in RCRIS.
	Metric(s) and Quantitative Value(s)	The average time between the Maine's inspection completion and issuing the 120 enforcement actions is punctual (approximately 55 days). Six files reviewed included enforcement beyond the initial NOV (RCRIS code 310). The average time between the inspection and 310 enforcement action is punctual (approximately 233 days). These values are all within time limits established in the HWCE's Enforcement Response Policy. As previously explained, two of these reviewed facilities (Praxair Surface Technology and Spray Maine, Inc.) did not have SNC determinations reported accurately into the national RCRIS database (16.6%), despite being classified as SNCs in Maine's internal enforcement decision document. R07C0S - Violation identification rate at sites with inspections (1 FY) - 5.7% R07C0E - Violation identification rate at sites with inspections (1 FY) - 0.0% Metric 7a - % of accurate compliance determinations based on inspection reports – 92.3% Metric 7b - % of violation determinations in the files reviewed that are reported timely to the national database (within 150 days) 92.3%
	State Response	
	Recommendation(s)	

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.

8-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements
------------	-----------------------------	---

		☒ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	MEDEP is effective in identifying their SNCs, but needs to improve the reporting aspect of this determination into the national RCRIS database.
	Explanation	As stated above in Elements 2, 3 & 7, thirteen files were selected and reviewed. Of the 13 selected files, twelve facilities had EPA identification numbers. Two of the facilities (Praxair Surface Technology and Spray Maine, Inc.) had SNC determinations made in Maine's enforcement decision document, but were not reported as SNCs in the national RCRIS database. In the instances of Praxair Surface Technologies and Spray Maine, Inc., the HWCE explained that each facility had been evaluated and determined to be a SNC in their enforcement decision document, but that information was not properly reported into the RCRIS national database. The HWCE immediately corrected both instances after being made aware of this oversight. Furthermore, in the case of Praxair Surface Technology, in the case file the HWCE acknowledges that the nature and circumstances of the violation should be resolved in an action that includes a monetary penalty. But the penalty component was not pursued, provided that the company voluntarily developed an upgrade to their existing dust suppression system. The file reviewed did not include any calculation of economic benefit achieved by the company. A review of the case file and the RCRIS national database indicates that this company has a history of non-compliance at its facility. Based on the company's history, and the extent of violations, a penalty should have been pursued. If the HWCE and the company sought to develop a project, it should not have been completely in lieu of a penalty, but rather, should have been considered to be a type of Supplemental Environmental Project (SEP) that would offset a percentage of the final penalty. The HWCE allowed the company to install a dust suppression and/or collection system to reduce fugitive hazardous dust in lieu of any monetary penalty. This is equipment that should have been in use anyway if the operations were leading to regular discharged of hazardous waste. Operating a system that protects employees should not be considered going above and beyond compliance. Of the 13 files reviewed, three facilities with SNC type violations were not reported in RCRAInfo, although they were considered by MEDEP to be SNCs. One of these three (Keystone Automotive), was a non-notifier, that MEDEP did not view as being required to have an EPA ID#, therefore it was not in RCRAInfo. The other two facilities (Praxair and Spray Maine) were identified internally as being SNCs (and were subsequently issued a monetary penalty), but were not properly reported as SNCs in RCRAInfo. Region 1 understands that all of the SNCs were identified as being SNCs by MEDEP, but these three inspections were not reported into RCRAInfo, for the reasons described above. Because it was a data issue rather than an SNC identification issue, Region 1 believes Element 8 warrants a rating as Area for State Attention.
	Metric(s) and Quantitative Value(s)	Twelve files for facilities with EPA ID numbers were reviewed. Ten of these files had timely reporting. As previously stated in Element 2, two facilities (16.6%) did not have SNC determinations reported into the RCRIS national database despite being characterized as SNCs in their internal enforcement decision documents (Praxair Surface Technologies, Spray Maine, Inc.) Generally, the HWCE completes their SNC determinations shortly after issuing the NOV.

		R08A0S - SNC identification rate at sites with inspections (1 FY) - 10.2% R08A0C - SNC identification rate at sites with evaluations (1 FY) - 9.6% R08B0S - Percent of SNC determinations made within 150 days (1 FY) - 80.0% R08B0E - Percent of SNC determinations made within 150 days (1 FY) - 0 / 0 R08C0S - Percent of formal actions taken that received a prior SNC listing (1 FY) - 100.0% R08C0E - Percent of formal actions taken that received a prior SNC listing (1 FY) - 0.0% Metric 8d - % of violations in files reviewed that were accurately determined to be SNC - 62.5%
	State Response	
	Recommendation(s)	As previously recommended, develop a system that periodically reviews RCRIS to determine the accuracy of data elements that must be reported into the national database.

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

9-1	This finding is a(n)	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	Each of the SNC facilities issued formal actions were settled by negotiating a consent agreement that effectively specified compliance actions that must be fulfilled within a specified time frame. Similarly, SV facilities were effectively concluded with the issuance of appropriate non-formal responses.
	Explanation	Of the files reviewed, five facilities were identified as SNCs in the national RCRIS database (Southern Maine Medical Center, ENPRO, Northeast Packaging, Saunders Brothers, Modern Woodcrafts), one facility was a non-notifier, but identified as a SNC (Keystone Automotive), and two facilities were identified as SNCs internally by the HWCE, but were not identified as SNCs in the national RCRIS databases (Praxair, Spray Maine). The remaining reviewed files were identified as secondary violators (SVs) (Rite Aid, Ocean Point Marina, Katahdin Analytical, VA Togus, and Wise Business Forms). All inspections reviewed (both formal enforcement and non-formal enforcement), were initially followed up with a non-formal, Notice of Violation (NOV) that set a timeline (usually 30-days) that the company must come into compliance. MEDEP requires compliance documentation such as letters certifying compliance and/or photographic or other information confirming the compliance measures taken by the facility. Those facilities determined by MEDEP to be SNCs, were issued formal actions, after the issuance of the NOV.
	Metric(s) and	The review of 13 facilities' files reviewed showed that all (100%) were effectively and

	Quantitative Value(s)	appropriately returned to compliance by selecting appropriate enforcement tools available to the HWCE. Metric 9a - # of enforcement responses reviewed - 18 Metric 9b - % of enforcement responses that have returned or will return a source in SNC to compliance - 100% Metric 9c - % of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance - 5/7, 71.4%
	State Response	
	Recommendation(s)	

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

10-1	This finding is a(n)	☐ Good Practice ☒ Meets SRF Program Requirements ☐ Area for State Attention ☐ Area for State Improvement – Recommendations Required
	Finding	The HWCE is both timely and appropriate in their development of enforcement actions.
	Explanation	The HWCE operates under an Enforcement Response Policy (ERP) that states for SNC the following responses may be pursued: A Notice of Violation (NOV) must be issued within 135 days of the inspection; an Administrative Consent Agreement and Enforcement Order (ACAEO) must be issued within 180 days of the inspection; or the case must be referred to the Maine Attorney General (Maine AG) within 210 days of the inspection. This is significantly shorter than the equivalent EPA ERP goal for AG referral at 360 days. The reviewed files were completed as described below: The average time between the inspection and the issuance of a Notice of Violation in the files reviewed was approximately 62 days, well below the ERP limit of 135 days. The average time between the inspection and issuance of a formal enforcement action for the files reviewed was approximately 255 days, which suggests that the EPA ERP AG referral date (360 days) is consistently achieved. In each file reviewed, the HWCE correctly pursued formal enforcement in each case where the violations were significant and the violator was determined to be a SNC. During the initial file review the wrong date was used to determine the time between the inspection and the issuance of the formal enforcement action (Modern Woodcraft). The time period was calculated as 1083 days, when in actually it was 432 days. The 210 day ME AG referral date is the date that MEDEP must refer a case to ME AG, not the date that the formal action must be issued by ME AG.

	Metric(s) and Quantitative Value(s)	All of the enforcement actions reviewed were completed in a timely and appropriate manner, in accordance with the HWCE's ERP. 13/13 (100%) R10A0S - Percent of SNCs with formal action/referral taken within 360 days (1 FY) - 20.0% R10A0C - Percent of SNCs with formal action/referral taken within 360 days (1 FY) - 20.0% R10B0S - No activity indicator - number of formal actions (1 FY) – 5 Metric 10c - % of enforcement responses reviewed that are taken in a timely manner - 12/1, 92.3% Metric 10d - % of enforcement responses reviewed that are appropriate to the violations - 11/13, 84.6%
	State Response	
	Recommendation(s)	

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

11-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement – Recommendations Required
	Finding	The HWCE does not include any narrative that further describes how the penalty was developed.
	Explanation	In calculating penalties, the HWCE consistently uses only a single-page spreadsheet that summarizes the violation, range of harm/deviation, the penalty matrix and value chosen, economic benefit, and adjustment factors (up or down). Also, the HWCE's documentation of how economic benefit is calculated is also limited. Two of the penalty actions reviewed included economic benefit values in the penalty spreadsheet without any meaningful explanation (Northeast Packaging and Spray Maine, Inc.). In all cases, the HWCE does not explain the sources of the values used to determine economic benefit. For example, if a laboratory is consulted to obtain an estimate on the cost to analyze a waste for regulated metals, the calculation should include information on what lab provided the cost estimate, and if necessary, a description of any other assumptions made in the estimate. In one case reviewed during the file review (Southern Maine Medical Center), there were no penalty calculation documents in the file. Later, the HWCE explained that the penalties were calculated, but the copies of the penalty documents were only on the inspector's computer, and were not in the paper file. As already explained, the HWCE spreadsheet has an adjustment cell (up or down), but there is no explanation on what considerations were evaluated to determine the percentage value selected (either up, or down). In the FFY06 audit, EPA recommended that the HWCE consider supplementing the penalty documentation with a brief narrative or other means to better explain how the penalty

		calculation was developed, specifically, what criteria were evaluated in choosing a specific penalty matrix cell and the number chosen within the cell. This recommendation has not been adopted by the HWCE. The HWCE's streamlined approach is potentially a source of inconsistent applications of the HWCE's penalty policy, particularly if the person responsible for the review of penalty documents changes in the future, which inevitably will occur. A narrative documenting the penalty calculation is an added time commitment, but is invaluable in maintaining fair and consistent application of the penalty policy. By supplementing the existing documentation with a brief narrative, it would be easier to ensure fair and consistent penalty calculations. In each penalty spreadsheet reviewed, it was difficult to evaluate how the penalty's matrix cell was chosen, and additionally, how the value within the range allowed by the selected matrix cell was chosen. In many instances, the audit team disagreed with the matrix cells selected, and found that the penalty matrix selected to have under penalized the violator based on the potential for harm or extent of deviation. But, there is no way to consider the HWCE's decision making process without some sort of supplemental explanations describing how they determined the selected matrix cell to be correct.
	Metric(s) and Quantitative Value(s)	Degree to which gravity is adequately documented in file—87.5% (7/8) (Southern Maine Medical Center. Degree to which economic benefit is adequately documented -- 62.5% (5/8) (Southern Maine Medical Center, Northeast Packaging Company, Spray Maine, Inc.) Metric 11a - % of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit - 2/6, 33.3%
	State Response	
	Recommendation(s)	By September 30, 2012, develop a policy or guidance to address the following actions. 1. Supplement initial and final penalty spreadsheets with narrative. 2. Supplement documentation of economic benefit calculations. When values are used to make an estimate, describe the source of the selected estimate. 3. For violations lasting over a prolonged period of time (Spray Maine, Inc.), consider using the EPA BEN model to ensure that the time-value of money is considered in calculation. 4. Develop a management system to ensure that penalty calculation documents are always part of the paper file maintained by the HWCE.

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

12-1	This finding is a(n)	☐ Good Practice ☐ Meets SRF Program Requirements ☐ Area for State Attention ☒ Area for State Improvement – Recommendations Required
	Finding	Documentation of calculations that led to final penalty assessments was not always done. The HWCE effectively documents penalty collection in their case files and in the national RCRIS database.
	Explanation	If a penalty is modified between the initial penalty and the final penalty, a new single page spreadsheet is developed, but there is no narrative explanation in the files that describes differences between the initially developed penalty and the final penalty and why the modifications were finalized.

		In one case reviewed during the file review (Southern Maine Medical Center), there were no penalty calculation documents in the file. Later, the HWCE explained that the penalties were calculated, but the copies of the penalty documents were only on the inspector's computer, and were not in the paper file. Documentation of penalty collection-- 100% (8/8) Documentation of Initial vs Final Penalty-- 87.5% (7/8) (It should be noted that in all reviewed penalties (7/7 or 100%), the HWCE uses only a one-page spreadsheet to summarize the initial penalty, and then when the penalty changes, completes another one-page spreadsheet to summarize the final penalty. The SRF2 review team believes this practice does not sufficiently document what factors caused the penalty to be changed between the initially proposed penalty and the final penalty.
	Metric(s) and Quantitative Value(s)	R12A0S - No activity indicator - penalties (1 FY) - \$125,149 R12B0S - Percent of final formal actions with penalty (1 FY) - 80.0% R12B0C - Percent of final formal actions with penalty (1 FY) -80.0% Metric 12a % of penalties reviewed that document the difference and rationale between the initial and final assessed penalty. - 0/6 , 0% Metric 12b - % of files that document collection of penalty - 100%
	State Response	
	Recommendation(s)	Modifications in penalties can be documented in MEDEP's current matrix approach, but the changes should be supplemented with enough narrative to explain why the penalty changes were made. MEDEP should have this process in place by September 30, 2012.

APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEW

During the first SRF review of MEDEP's compliance and enforcement programs, Region 1 and MEDEP identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference.)

#	Media	Element	Due Date	Status	Finding
E1	CAA	Insp Universe	12/31/2007	Completed	Complete Commitments for FCEs for FY07
E1	CAA	Insp Universe	12/31/2007	Completed	MDR Data entry
E2	CAA	Violations ID'ed Appropriately	1/1/2010	Working	Inspection Report Quality
E7	CAA	Penalty Calculations	3/31/2009	Completed	Penalty Calculation Documentation
E9	CAA	Grant Commitments	1/1/2010	Completed	Develop Workplan for FY08
E10	CAA	Data Timely	12/31/2007	Completed	Data Improvements
E12	CAA	Data Complete	12/31/2007	Completed	Improve MDR Data Quality
E2	CWA	Violations ID'ed Appropriately	11/30/2007	Completed	Inspection Follow-up
E3	CWA	Violations ID'ed Timely	11/30/2007	Completed	Improve Inspection Report Timeliness
E6	CWA	Timely & Appropriate Actions	9/30/2010	Long Term Resolution	Obtain Administrative Penalty Authority
E7 , E11	CWA	Penalty Calculations, Data Accurate	9/30/2008	Completed	Document Economic Benefit Decisions
E10	CWA	Data Timely	12/31/2007	Working	Improve Data Entry
E11	CWA	Data Accurate	12/31/2007	Completed	Improve Data Quality
E1	RCRA	Insp Universe	9/30/2008	Completed	Inspect 5 yr. Un-inspected LQGs
E2	RCRA	Violations ID'ed Appropriately	9/30/2008	Completed	Improve Inspection Documentation
E3	RCRA	Violations ID'ed Timely	9/30/2008	Completed	Improve Inspection Documentation
E4	RCRA	SNC Accuracy	9/30/2008	Completed	Improve SNC Accuracy
E7	RCRA	Penalty Calculations	9/30/2008	Completed	Enhance Penalty Calculation and Documentation
E8	RCRA	Penalties	9/30/2008	Completed	Document Litigation Risk and

		Collected			and Penalty Collection
--	--	-----------	--	--	------------------------

APPENDIX B: OFFICIAL DATA PULL

Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Count	Universe	Not Counted
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			68	NA	NA	NA
A01A1C	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			68	NA	NA	NA
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			65	NA	NA	NA
A01A2C	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			65	NA	NA	NA
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			177	NA	NA	NA
A01B1C	Source Count: Synthetic Minors (Current)	Data Quality	Combined			177	NA	NA	NA
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			1	NA	NA	NA
A01B2C	Source Count: NESHAP Minors (Current)	Data Quality	Combined			1	NA	NA	NA
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			292	NA	NA	NA
A01B3C	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined			292	NA	NA	NA
A01C1S	CAA Subprogram Designations: NSPS (Current)	Data Quality	State			66	NA	NA	NA
A01C1C	CAA Subprogram Designations: NSPS (Current)	Data Quality	Combined			66	NA	NA	NA
A01C2S	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State			4	NA	NA	NA
A01C2C	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Combined			4	NA	NA	NA
A01C3S	CAA Subprogram Designations: MACT (Current)	Data Quality	State			51	NA	NA	NA
A01C3C	CAA Subprogram Designations: MACT (Current)	Data Quality	Combined			51	NA	NA	NA
A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	82.7%	27.3%	3	11	8
A01C5S	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	38.6%	0 / 0	0	0	0
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.4%	15.9%	7	44	37

A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	90.3%	14.3%	7	49	42
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			103	NA	NA	NA
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			105	NA	NA	NA
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			156	NA	NA	NA
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			54	NA	NA	NA
A01E0C	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined			55	NA	NA	NA
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			32	NA	NA	NA
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			27	NA	NA	NA
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			3	NA	NA	NA
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			3	NA	NA	NA
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	49.3%	0.0%	0	3	3
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	74.1%	100.0%	3	3	0
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	78.1%	100.0%	3	3	0
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			10	NA	NA	NA
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			10	NA	NA	NA
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			\$192,250	NA	NA	NA
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		3	NA	NA	NA
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.8%	7.1%	1	14	13
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	59.0%	7.1%	1	14	13
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.6%	2.9%	2	68	66
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			5	NA	NA	NA
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	32.4%	0.0%	0	3	3
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	53.3%	32.6%	78	239	161
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.9%	63.0%	17	27	10

A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	86.9%	81.5%	53	65	12
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	87.1%	84.6%	55	65	10
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	82.9%	79.4%	54	68	14
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	83.2%	82.4%	56	68	12
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	82.9%	65.2%	30	46	16
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.3%	69.6%	32	46	14
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	72.4%	42	58	16
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.5%	74.1%	43	58	15
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.0%	74.3%	136	183	47
A05C0C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.3%	76.5%	140	183	43
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		29.8%	45.5%	307	675	368
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			25	NA	NA	NA
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			25	NA	NA	NA
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	NA	NA	NA
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7%	100.0%	66	66	0
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.0%	23.4%	29	124	95
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	40.0%	2	5	3
A07C2E	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	33.3%	0.0%	0	1	1
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.7%	0.0%	0	68	68
A08A0E	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.8%	0.0%	0	68	68
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.6%	1.7%	3	177	174

A08B0E	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.0%	0	177	177
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.5%	100.0%	1	1	0
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.7%	100.0%	5	5	0
A08E0S	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	43.1%	20.0%	1	5	4
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		34.9%	58.3%	7	12	5
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			10	NA	NA	NA
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.1%	100.0%	4	4	0

Clean Water Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Count	Universe	Not Counted
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			85	NA	NA	NA
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			288	NA		NA
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			19	NA	NA	NA
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	91.8%	91.8%	78	85	7
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.6%	91.9%	444	483	39
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	92.7%	90.6%	77	85	8
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			23.5%	8	34	26
W01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			62.8%	181	288	107
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			77.9%	562	721	159
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			55.2%	158	286	128
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			24.0%	69	288	219
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined			0 / 0	0	0	0
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined			96	NA	NA	NA

W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA
W01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA
W01G1E	Penalties: total number of penalties (1 FY)	Data Quality	EPA			0	NA	NA	NA
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
W01G2E	Penalties: total penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	NA	NA	NA
W01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA			\$0	NA	NA	NA

W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	NA	NA	NA
W01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA			\$0	NA	NA	NA
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	NA	NA	NA
W01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	0	0	0
W02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	>=; 80%		0 / 0	0	0	0
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.7%	35.3%	30	85	55
W05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.8%	0.0%	0	85	85
W05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	66.4%	35.3%	30	85	55
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			5.2%	15	288	273
W05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.0%	0	288	288
W05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			5.2%	15	288	273
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0.0%	0	19	19
W05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	19	19
W05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			0.0%	0	19	19
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			0.0%	0	43	43
W05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.0%	0	43	43
W05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			0.0%	0	43	43
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		31.0%	50.0%	1	2	1
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.4%	6.5%	9	139	130

W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.2%	58.8%	50	85	35
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			28	NA	NA	NA
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.6%	32.9%	28	85	57
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	41.2%	35	85	50

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Count	Universe	Not Counted
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	NA	NA	NA
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			95	NA	NA	NA
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			644	NA	NA	NA
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			529	NA	NA	NA
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			64	NA	NA	NA
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			49	NA	NA	NA
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			3	NA	NA	NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			49	NA	NA	NA
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			3	NA	NA	NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			66	NA	NA	NA
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			7	NA	NA	NA
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			42	NA	NA	NA

R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			0	NA	NA	NA
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			44	NA	NA	NA
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			0	NA	NA	NA
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			44	NA	NA	NA
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			0	NA	NA	NA
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			5	NA	NA	NA
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			0	NA	NA	NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			10	NA	NA	NA
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			5	NA	NA	NA
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			5	NA	NA	NA
R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			\$125,149	NA	NA	NA
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			\$0	NA	NA	NA
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			1	NA	NA	NA

R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	NA	NA	NA
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			15	NA	NA	NA
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			1	NA	NA	NA
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			0.0%	0	1	1
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			100.0%	1	1	0
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	85.7%	50.0%	1	2	1
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	90.8%	100.0%	2	2	0
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	24.6%	10.9%	7	64	57
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	26.7%	12.5%	8	64	56
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.5%	67.2%	43	64	21
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.8%	73.4%	47	64	17
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			13.8%	89	644	555
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			14.3%	92	644	552
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			42	NA	NA	NA

R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			45	NA	NA	NA
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			11	NA	NA	NA
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			13	NA	NA	NA
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			0	NA	NA	NA
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			0	NA	NA	NA
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			6	NA	NA	NA
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			6	NA	NA	NA
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			85.7%	42	49	7
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			0.0%	0	3	3
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	10.2%	5	49	44
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3%	9.6%	5	52	47
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	75.6%	80.0%	4	5	1
R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	64.2%	0 / 0	0	0	0
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	61.4%	100.0%	5	5	0

R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	71.6%	0.0%	0	1	1
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	39.0%	20.0%	1	5	4
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	35.6%	20.0%	1	5	4
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			5	NA	NA	NA
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			\$125,149	NA	NA	NA
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	64.6%	80.0%	4	5	1
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	64.9%	80.0%	4	5	1

APPENDIX C: PDA TRANSMITTAL LETTER

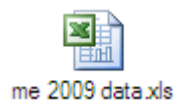
Appendices C, D and E provide the results of the Preliminary Data Analysis (PDA). The Preliminary Data Analysis forms the initial structure for the SRF report, and helps ensure that the data metrics are adequately analyzed prior to the on-site review. This is a critical component of the SRF process because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

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

CAA

From: Tom McCusker/R1/USEPA/US
To: Louis.Fontaine@maine.gov, Kurt.Tidd@maine.gov
Cc: Christine Sansevero/R1/USEPA/US@EPA, Mark Mahoney/R1/USEPA/US@EPA
Date: 06/02/2010 05:41 PM
Subject: Preliminary Data Assessment for SRF

Hi Louis & Kurt, Attached, please find a copy of the PDA with my initial findings. When you get a chance can you look it over and let me know if you have any comments. Regards, Tom



Tom McCusker
Environmental Engineer
U.S. EPA - New England

CWA

RCRA

APPENDIX D: PRELIMINARY DATA ANALYSIS CHARTS

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

The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. However, the full PDA, which is available as a document separate from this report, contains every metric - positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the file review results where appropriate, and dialogue with the state has occurred. Through this process, Initial Findings may be confirmed, modified, or determined not to be supported. Findings are presented in Section IV of this report.

Clean Air Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Initial Findings
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			68	Although Title V universe is a moving target this count appears accurate. ME currently has 65-68 Title V sources.
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			65	Wausau-Mosinee Paper, Spencer Press, and Morin Brick (Gorham) need to have a Title V flag entered under the CMSC code.
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			177	This count includes approximately 46 SM80s and 131 other synthetic minor sources. The SM universe is a moving target but this appears accurate.
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			292	In FY '09, ME reported that it conducted FCEs at 182 synthetic minor (Non-SM80s) and true minor sources.

A01C4S	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	82.7%	27.3%	A review of this metric drilldown indicates that all 11 NSPS facilities had FCEs since 10/1/2005 (100%). It appears that FCEs were not counted in this metric if the specific NSPS Subpart the facility was subject to was not provided for in the action.
A01C6S	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	92.4%	15.9%	A review of this metric drilldown indicates that all 44 MACT facilities had FCEs since 10/1/2005 (100%). It appears that FCEs were not counted in this metric if the specific MACT Subpart the facility was subject to was not provided for with the action.
A01C6C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	90.3%	14.3%	A review of this metric drilldown indicates that all 49 MACT facilities had FCEs since 10/1/2005 (100%). It appears that FCEs were not counted in this metric if the specific MACT Subpart the facility was subject to was not provided for with the action. In addition, the 5 FCEs done by EPA do not show up as counted FCEs in the drilldown.
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			3	An additional 3 HPVs were identified in FY '09 (Huber Engineered Wood, C.H. Sprague, and Mid Maine Waste Action Corp.). ME had difficulty uploading HPVs through the universal interface.
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			3	Same comments as immediately above.
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	49.3%	0.0%	A few years back, the ME DEP took on the responsibility of entering its own identified HPVs into AFS. For some time now ME DEP has been experiencing problems uploading HPV data from the universal interface. Due to these problems, in June 2010, ME DEP requested that EPA take back the responsibility of entering HPV information into AFS.
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	74.1%	100.0%	Good!
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	78.1%	100.0%	Good!

A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0		3	EPA to enter a CMSC Code of "V" for the 3 facilities (Wausua Mosinee, Spencer Press, and Morin Brick-Gorham).
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.8%	7.1%	Good!
A02A0C	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	59.0%	7.1%	Good!
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.6%	2.9%	Two tests at the same facility (Ecomaine) did not have a pass/fail result. The remaining 66 tests had an associated pass/fail result. Not a concern.
A03A0S	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	32.4%	0.0%	A few years back, the ME DEP took on the responsibility of entering its own identified HPVs into AFS. For some time now ME DEP has been experiencing problems uploading HPV data from the universal interface. Due to these problems, in June 2010, ME DEP requested that EPA take back the responsibility of entering HPV information into AFS.
A03B1S	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	53.3%	32.6%	For some time now, the ME DEP has been experiencing problems with the universal interface which is used to upload data from the DEP database into the AFS database. This contributes to the low percentage of actions being entered into AFS in a timely manner.
A03B2S	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	67.9%	63.0%	DEP is close to the national average. Again, the trouble the DEP has been experiencing with the universal interface contributes to a lower percentage of actions being entered in a timely manner.
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	86.9%	81.5%	DEP is close to the national average. A total of six out of the 12 major sources not inspected within the two year CMS cycle were mega sites on a three year CMS inspection cycle. In addition, DEP was in the process of training a new inspector who replaced an inspector who retired in 2008.
A05A1C	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	87.1%	84.6%	Same comments as immediately above.

A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	82.9%	79.4%	DEP is close to the national average. A total of six out of the 12 major sources not inspected within the past two years were mega sites on a three year CMS inspection cycle. In addition, DEP was in the process of training a new inspector who replaced an inspector who retired in 2008.
A05A2C	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	83.2%	82.4%	Same comments as immediately above.
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	82.9%	65.2%	EPA will discuss this topic further with DEP to determine whether there was a problem conducting the inspections or a problem with entering the inspection data into AFS (inspections done but not entered into AFS because of universal interface or other issues).
A05B1C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	83.3%	69.6%	Same comments as immediately above.
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	90.2%	72.4%	Same comments as found in Metric A05B1S
A05B2C	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		90.5%	74.1%	Same comments as found in Metric A05B1S
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			25	EPA will work with the DEP to either ensure that inspection data for any of the 25 facilities already inspected gets into AFS or ensure that those not inspected get prioritized for inspection. If need be, ensure that operating statuses get updated in AFS for any sources that have shutdown.
A05E0C	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			25	Same comments as immediately above.
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.7%	100.0%	Great!
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	22.0%	23.4%	Good! Greater than national average.
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	46.6%	40.0%	Okay. Greater than half the national average.

A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.7%	0.0%	There were two additional FY '09 HPVs identified that were Title V sources (Mid Maine Action Corp. and Huber Engineered Wood for a percentage of $2/68 = 2.94\%$, still below half the national average of 7.7%
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.6%	1.7%	Good! Above the national average.
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.5%	100.0%	Good!
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	45.7%	100.0%	DEP always issues informal enforcement actions as early warning notices. When appropriate, formal enforcement follows informal enforcement actions. In addition, informal enforcement is taken for less serious violations that do not meet the HPV criteria.
A08E0S	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	43.1%	20.0%	Two of the facilities in the drilldown for this metric were not counted as HPVs due to universal interface issues. Mid Maine Waste Action Corp. and Huber Engineered Wood were both identified to EPA as HPVs by DEP in FY '09. Therefore, DEP's percentage should be $3/5 = 60\%$, which is above the national average of 43.1%.
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		34.9%	58.3%	EPA will discuss the timeliness issues with DEP. At least two of the sources listed as not having timely enforcement were federal facilities where the DEP was working with the facilities to incorporate SEPs into the settlements.
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	$\geq 80\%$	86.1%	100.0%	Great!

Clean Water Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Initial Findings
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	the data for enforcement actions and penalties was not entered into the the national data base. MEDEP knows this data needs to be entered into the national system. They have hired two new staff to help with data entry and QA/QC. The MEDEP is also working on improving their data in preparation for migration of their data into the ICIS system by the end of FY 2012. I have no issues with the data that they did report. It is accurate and comes from their own internal data system "WCS" which they use to track inspections and enforcement actions.
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	see explanation above
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	see explanation above
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	see explanation above
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	see explanation above
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	see explanation above
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	see explanation above
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	see explanation above
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	see explanation above
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			\$0	see explanation above
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			\$0	see explanation above
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State			\$0	see explanation above
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			\$0	see explanation above
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=, 80%		0 / 0	see explanation above
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	63.7%	35.3%	MEDEP conducted 69 compliance evaluation inspections at 55 major sources for a coverage of 65.8% which is just above the national average. Several of the major sources get inspected several times a year (the paper mills). This is why there are more CEI inspections than facilities inspected. MEDEP conducted 194 total inspections consisting of the following types of inspections: sampling, routine, enforcement case development, compliance assistance and licensing. The MEDEP gets to all their majors every two years.
W05B1S	Inspection coverage: NPDES non-major individual permits (1	Goal	State			5.2%	MEDEP conducted 28 CEI's and a total of 204 inspections at minor sources. MEDEP gets to all their minor sources every 5 years.

	FY)						
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		31.0%	50.0%	yes it is higher than national average but when you only have two facilities and one has still not gotten the issue resolved you are going to have a high average.
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		27.4%	6.5%	this is well below the national average and as mentioned above MEDEP's issues with data and the Watch list are with DMR non receipt.
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		53.2%	58.8%	Several years ago MEDEP began using a system called EDMR which allowed facilities to electronically submit their dmr data to the state. MEDEP has had problems with getting the data into its own system and also transferring the data from its system into the PCS system. It has taken longer than the MEDEP would have liked but they now have a handle on the problem. They have hired two additional people to help with data entry and QA/QC issues. Occasionally they still get a facility that pops up that has trouble getting data into the system. This is because they are continuing to add new facilities all the time. Throughout the period of time when MEDEP was having high numbers of facilities on the watch list for dmr non-receipt the issue was never one of not actually getting the electronic or paper data it was always one of getting it into the system. Currently there are only 2 facilities on the watch list for missing DMRs
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			28	See explanation above
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.6%	32.9%	Do to the high number of facilities on the watch list for DMR violations which was explained above MEDEP shows a high SNC rate for majors. Maine had roughly 12 facilities on the watch list in FY2010, 10 for the DMR problem and 2 for effluent violations this equates to 14.1% SNC rate which is below the national average.
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	18.6%	41.2%	because of the high number of facilities that the MEDEP has had on the watch list and the length of time some facilities have been on the watch list it appears there is large number of facilities that have not had timely action. Of all the facilities listed for FY 2009 on the watch list Paris utility district did take a long time to finalize a consent agreement. This was due to the complexity of the situation and the unwillingness of the Town to negotiate with the MEDEP. EPA was brought in to help move the negotiations along.

Resource Conservation and Recovery Act

Original Data Pulled from Online Tracking Information System (OTIS)							EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Maine Metric	Initial Findings
7R01B1S	Compliance monitoring number of inspections (1 FY)	Data quality	State			49	The HWCE allocates a substantial amount of their inspection and enforcement resources to conducting inspections at facilities that do not have EPA ID numbers, and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities). Therefore, the RCRIS national database does not accurately reflect the full range of the HWCE's inspection and enforcement activities. The HWCE maintains an additional internally developed database that summarizes all of their inspection activity. This information was provided and reviewed and completely reflects all of the hazardous waste inspection activity completed by the HWCE in Maine. In FY09, the HWCE conducted a total of 103 inspections.
9R01B2S2	Compliance monitoring sites inspected (1 FY)	Data Quality	State			49	See 7R01B1S explanation.
11R0C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			66	See 7R01B1S explanation.
13R01C2s	Number of sites with violations determined during the FY	Data Quality	State			42	See 7R01B1S explanation
15R01D1S	Informal actions: number of sites (1FY)	Data Quality	State			44	See 7R01B1S explanation
17R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			44	See 7R01B1S explanation
27R01G0S	Total amount of final penalties (1FY)	Data Quality	State			\$125,149	See 7R01B1S explanation
37R05B0S	Inspection coverage for LQGs (1FY)	goal	State	20%	24.6%	10.9%	The HWCE conducted inspections at LQGs that are part of the RCRAInfo LQG Universe, but these LQGs do not show up in the Biennial Report LQG Universe. Because EPA calculates inspection coverage by using the Biennial Report's LQG Universe, the HWCE's inspection coverage is not fully captured for LQGs (1 FY). EPA's metric indicates 10.9% coverage of LQG Universe, but the actual coverage is a higher percentage of the LQG Universe

38R05B0C	Inspection coverage for LQGs (1FY)	Goal	Combined	20%	26.7%	12.5%	See 27R01G0S explanation
39R05C0S	Inspection coverage for LQGs (5FYs)	Goal	State	100%	68.5%	67.2%	See 27R01G0S explanation
40R05C0C	Inspection coverage for LQGs (5FYs)	Goal	Combined	100%	73.8%	73.4%	See 27R01G0S explanation
47R05E3S	Inspection at non-notifiers (5FY)	Information only	State			0	See 7R01B1S explanation
48R05E3C	Inspection at non-notifiers (5FY)	Information only	Combined			0	See 7R01B1S explanation
59R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1FY)	Review Indicator	State	80%	39.0%	20.0%	Yes, formal actions were completed within 360 days for ENPRO and Saunder Bothers, and the 360 day clock was still open at the time of the PDA for Environ Services. Metric should read 75% for cases which are closed
60R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1FY)	Review Indicator	Combined	80%	35.6%	20.0%	See 59R10A0S explanation
63R12B0S	Percent of final formal actions with penalty (1FY)	Review Indicator	State	½ Nat Avg	64.6%	80.0%	Yes, formal action against Southern Maine Center included a penalty which has been collected. Should read 100%.

APPENDIX E: PDA WORKSHEET (with State and EPA comments)

Clean Air Act

MEDEP did not provide written responses to the Preliminary Data Assessment for the Clean Air Act.

Clean Water Act

Metric	Metric Description	Metric Type	Maine Metric Prod	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	85	NA	NA	NA				
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	0	NA	NA	NA				
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	288	NA	NA	NA				
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	19	NA	NA	NA				
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	91.8%	78	85	7				
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	91.9%	444	483	39				
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	90.6%	77	85	8				
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	23.5%	8	34	26				
W01C1C	Non-major individual permits: correctly coded limits (Current)	Informational Only	62.8%	181	288	107				
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	77.9%	562	721	159				

C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	55.2%	158	286	128				
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	24.0%	69	288	219	YES	50	PCS	Data interpretation possibly
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	0 / 0	0	0	0				
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	96	NA	NA	NA				
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	15	WCS/ paper records	
W01E1E	Informal actions: number of major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	18	WCS/ paper records	
W01E2E	Informal actions: number of actions at major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	36	WCS/ paper records	
W01E3E	Informal actions: number of non-major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	40	WCS/ paper records	
W01E4E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	1	WCS/ paper records	
W01F1E	Formal actions: number of major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	1	WCS/ paper records	
W01F2E	Formal actions: number of actions at major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	3	WCS/ paper records	
W01F3E	Formal actions: number of non-major facilities (1 FY)	Data Quality	0	NA	NA	NA				
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	0	NA	NA	NA	yes	3	WCS/ paper records	
W01F4E	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	0	NA	NA	NA				

W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	0	NA	NA	NA	yes	4	WCS/ paper records	
W01G1E	Penalties: total number of penalties (1 FY)	Data Quality	0	NA	NA	NA				
W01G2S	Penalties: total penalties (1 FY)	Data Quality	\$0	NA	NA	NA	yes	\$44,600	WCS/ paper records	
W01G2E	Penalties: total penalties (1 FY)	Data Quality	\$0	NA	NA	NA				
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	\$0	NA	NA	NA	no	\$0	WCS/ paper records	
W01G3E	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	\$0	NA	NA	NA				
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	\$0	NA	NA	NA	yes	\$245,715	WCS/ paper records	
W01G4E	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	\$0	NA	NA	NA				
W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	\$0	NA	NA	NA	yes	4	WCS/ paper records	
W01G5E	No activity indicator - total number of penalties (1 FY)	Data Quality	\$0	NA	NA	NA				
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	0 / 0	0	0	0	yes	1	WCS/ paper records	
W02A0E	Actions linked to violations: major facilities (1 FY)	Data Quality	0 / 0	0	0	0				
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	35.3%	30	85	55	Yes	56 facilities	WCS database records	
W05A0E	Inspection coverage: NPDES majors (1 FY)	Goal	0.0%	0	85	85				
W05A0C	Inspection coverage: NPDES majors (1 FY)	Goal	35.3%	30	85	55				
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	5.2%	15	288	273	Yes	28 facilities	WCS database records	
W05B1E	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	0.0%	0	288	288				
W05B1C	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	5.2%	15	288	273				
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	0.0%	0	19	19				
W05B2E	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	0.0%	0	19	19				
W05B2C	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	0.0%	0	19	19				
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	0.0%	0	43	43				
W05C0E	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	0.0%	0	43	43				

	5b) (1 FY)									
W05C0C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	0.0%	0	43	43				
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	0	NA	NA	NA				
W07A2C	Single-event violations at non-majors (1 FY)	Informational Only	0	NA	NA	NA				
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	50.0%	1	2	1				
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	6.5%	9	139	130				
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	58.8%	50	85	35	Yes	41 facilities		WCS database records
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	28	NA	NA	NA		9 facilities		PCS data interpretation, effluent violations
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	32.9%	28	85	57	yes	10.50%		Effluent violations
W10A0C	Major facilities without timely action (1 FY)	Goal	41.2%	35	85	50				
	single year FY data is for FFY 09 (10/1/08-9/30/09)									
	3 year FY data is FFY 07, 08, 09 (10/1/06-9/30/09)									
	enforcement informal actions are letter of warning and notices of violation									
	enforcement formal actions are consent agreements or court actions									

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Maine Metric	Count	Universe	Not Counted	State Discrepancy (Yes/No)
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	2	NA	NA	NA	
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	95	NA	NA	NA	
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	644	NA	NA	NA	
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	529	NA	NA	NA	
R01A5S	Number of LQGs per latest official biennial report	Data Quality	64	NA	NA	NA	
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	49	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	3	NA	NA	NA	
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	49	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.

R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	3	NA	NA	NA	
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	66	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	7	NA	NA	NA	
R01C2S	Number of sites with violations determined during the FY	Data Quality	42	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01C2E	Number of sites with violations determined during the FY	Data Quality	0	NA	NA	NA	
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	44	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's

							metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01D1E	Informal actions: number of sites (1 FY)	Data Quality	0	NA	NA	NA	
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	44	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	0	NA	NA	NA	
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	5	NA	NA	NA	
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	0	NA	NA	NA	
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	10	NA	NA	NA	
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	1	NA	NA	NA	
R01F1S	Formal action: number of sites (1 FY)	Data Quality	5	NA	NA	NA	
R01F1E	Formal action: number of sites (1 FY)	Data Quality	1	NA	NA	NA	
R01F2S	Formal action: number taken (1 FY)	Data Quality	5	NA	NA	NA	
R01F2E	Formal action: number taken (1 FY)	Data Quality	1	NA	NA	NA	

R01G0S	Total amount of final penalties (1 FY)	Data Quality	\$125,149	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R01G0E	Total amount of final penalties (1 FY)	Data Quality	\$0	NA	NA	NA	
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	1	NA	NA	NA	
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	0	NA	NA	NA	
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	15	NA	NA	NA	
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	1	NA	NA	NA	
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	0.0%	0	1	1	
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	100.0%	1	1	0	
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	50.0%	1	2	1	
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	100.0%	2	2	0	
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	10.9%	7	64	57	Yes, Maine conducted inspections at LQGs that are part of the RCRAInfo LQG Universe, but these LQGs do not show up in the Biennial Report LQG universe. Because EPA calculates inspection coverage by using the Biennial Report LQG universe, Maine's inspection coverage is not fully captured by EPA's metric [EPA metric 5.B.0 = Inspection coverage for LQGs (1 FY)]. EPA's metric indicates 10.9% coverage of LQG Universe, but the actual coverage is a higher percentage of the LQG Universe.

R05B0C	Inspection coverage for LQGs (1 FY)	Goal	12.5%	8	64	56	Yes, Maine conducted inspections at LQGs that are part of the RCRAInfo LQG Universe, but these LQGs do not show up in the Biennial Report LQG universe. Because EPA calculates inspection coverage by using the Biennial Report LQG universe, Maine's inspection coverage is not fully captured by EPA's metric [EPA metric 5.B.0 = Inspection coverage for LQGs (1 FY)]. EPA's metric indicates 10.9% coverage of LQG Universe, but the actual coverage is a higher percentage of the LQG Universe.
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	67.2%	43	64	21	Yes, Maine conducted inspections at LQGs that are part of the RCRAInfo LQG Universe, but these LQGs do not show up in the Biennial Report LQG universe. Because EPA calculates inspection coverage by using the Biennial Report LQG universe, Maine's inspection coverage is not fully captured by EPA's metric [EPA metric 5.B.0 = Inspection coverage for LQGs (1 FY)]. EPA's metric indicates 10.9% coverage of LQG Universe, but the actual coverage is a higher percentage of the LQG Universe.
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	73.4%	47	64	17	Yes, Maine conducted inspections at LQGs that are part of the RCRAInfo LQG Universe, but these LQGs do not show up in the Biennial Report LQG universe. Because EPA calculates inspection coverage by using the Biennial Report LQG universe, Maine's inspection coverage is not fully captured by EPA's metric [EPA metric 5.B.0 = Inspection coverage for LQGs (1 FY)]. EPA's metric indicates 10.9% coverage of LQG Universe, but the actual coverage is a higher percentage of the LQG Universe.
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	13.8%	89	644	555	
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	14.3%	92	644	552	
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	42	NA	NA	NA	
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	45	NA	NA	NA	
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	11	NA	NA	NA	
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	13	NA	NA	NA	

R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	0	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R05E3C	Inspections at non-notifiers (5 FYs)	Informational Only	0	NA	NA	NA	Yes, Maine conducts inspections at facilities that do not have EPA ID#s and are not required to notify EPA or Maine of their hazardous waste activities (i.e. Small Quantity Generators and other non-notifier facilities identified through citizen complaints). The inspections activities, enforcement actions, and resulting monetary penalties assessed or collected as a result of such enforcement activities by Maine are not captured or reflected in the EPA metrics. As a result, EPA's metrics understate Maine's full range of hazardous waste compliance, inspection, and enforcement efforts.
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	6	NA	NA	NA	
R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	6	NA	NA	NA	
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	85.7%	42	49	7	
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	0.0%	0	3	3	
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	10.2%	5	49	44	
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	9.6%	5	52	47	
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	80.0%	4	5	1	

R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	0 / 0	0	0	0	
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	100.0%	5	5	0	
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	0.0%	0	1	1	
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	20.0%	1	5	4	Yes, formal actions were completed within 360 days for ENPRO Services of Maine, Inc., and Saunders Brothers -Locke Mills, and the 360 day clock is still open for Environ Services, Inc. Metric should read 75% for cases which are closed.
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	20.0%	1	5	4	Yes, formal actions were completed within 360 days for ENPRO Services of Maine, Inc., and Saunders Brothers -Locke Mills, and the 360 day clock is still open for Environ Services, Inc. Metric should read 75% for cases which are closed.
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	5	NA	NA	NA	
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	\$125,149	NA	NA	NA	
R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	80.0%	4	5	1	Yes, formal action against Southern Maine Medical Center included a penalty which has been collected. Metric should read 100%.
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	80.0%	4	5	1	

APPENDIX F-A : FILE SELECTION

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

CLEAN AIR ACT (CAA)

File Selection Logic	# of Files
selected the first federally reportable minor with an FCE	1
selected every fifth major with an FCE	7
selected the first other minor with an FCE	1
selected every tenth SM80 with an FCE	3
selected all penalty actions (four)	4
selected every third HPV plus one SM80	4

20

Results of File Selection by File Type	# of Files
Total # of majors	7
Total # of SM80s	5
Total # of SMs	3
Total # of federally reportable minors	4
Total # of other minors	1

20

CLEAN WATER ACT (CWA)

The State of Maine has 4 regional offices located in Portland, Bangor, Augusta and Presque Isle. To get a representative sample from each region, EPA used the File Selection tool to sort the facilities into each region, and then, select every 11th facility in each region of the state. This provided a good selection of majors and minors, a good distribution of inspection and enforcement files by region.

The data in the EPA system did not have all of the inspection or enforcement activity that MEDEP had undertaken in 2009. MEDEP had previously provided a list of all of their inspections and enforcement actions.

As the data base did not include all state actions, I looked at the facilities chosen by the selection tool in each region and adjusted to insure that in each region I had facilities with inspections that included enforcement actions and inspections that did not. This was accomplished by randomly electing facilities in each region in each category (inspection only

and inspection and enforcement.) This process added 5 facilities which were not in the original selection.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

The file selection tool was used to select 15 files. Two files were selected as supplemental file reviews (Keystone Automotive, Southern Maine Medical Center), in order to fully evaluate the range of the HWCE's inspection and enforcement activities. Two of the selected files by the file selection tools were not reviewed (Environ Services, Environmental Projects), because the reviewer concluded that the remaining selected files adequately represented the universe of facilities in the State and the type of actions taken by the HWCE.

APPENDIX F-B : FILE SELECTION

Clean Air Act

AFS #	Facility Name	Street	City	State Region
2302500794	CIANBRO PAINT SHOP	HUNNEWELL SQ	PITTSFIELD	CM
2301900014	COVANTA MAINE LLC WEST ENFIELD	ROUTE 2	LINCOLN	EM
2302900020	DOMTAR CORPORATION	MILL STREET	BAILEYVILLE	EM
2301900077	EASTERN MAINE MEDICAL CENTER	489 STATE ST	BANGOR	EM
2303100089	F.R. CARROLL, INC	NEW DAM RAOD	LIMERICK	
2300500018	FLORIDA POWER AND LIGHT	COUSINS ISLAND	YARMOUTH	SM
2302300187	HARRY C. CROOKER & SONS	103 LEWISTON RD	TOPSHAM	
2300360048	HUBER ENGINEERED WOOD, LLC	333 STATION RD.	EASTON	
2301900082	HUSSON COLLEGE	COLLEGE CIRCLE	BANGOR	EM
2302509028	MADISON PAPER INDUSTRIES	MAIN ST	MADISON	
2300100005	MID-MAINE WASTE ACTION CORPORATION	1 GOLDTHWAITE ROAD	AUBURN	
2302500779	MOOSE RIVER LUMBER CO.	25 TALPEY ROAD	MOOSE RIVER	EM
2300500053	NATIONAL SEMICONDUCTOR CO	5 FODEN ROAD	SOUTH PORTLAND	
2301900085	OLD TOWN CANOE CO.	125 GILMAN FALLS AVENUE	OLD TOWN	EM
2302100704	PLEASANT RIVER LUMBER CO.	ROUTE 16	DOVER-FOXCROFT	EM
2301700724	RUMFORD POWER	INDUSTRIAL PARK	RUMFORD	CM
2300300021	TATERMEAL INC. / MCCAIN	159 SKYWAY INDUSTRIAL PARK	PRESQUE ISLE	
2300300772	TROMBLEY INDUSTRIES	849 ACCESS HWY	CARIBOU	

SM = Southern Maine

CM = Eastern Maine

EM = Eastern Maine

Clean Water Act

Permit #	Facility	Inspection Report Reviewed	Enforcement Document Reviewed (dates issued)
MEU508094	Contract Farming of Maine	no	Letter of Warning (LOW) 8/1/06 Notice of Violation (NOV) 3/13/07, 4/14/08, 12/11/08
ME0000159	Twin Rivers Paper	No	NOV 11/10/08 Administrative Consent Agreement 4/16/09
ME0102318	Town of Grand Isle	Yes 1/14/09	N/A
ME0100684	Town of Van Buren	Yes 6/22/06	N/A
ME0002216	Tate and Lyle Ingredients Americas Inc.	Yes 6/24/09	NOV 5/13/09 LOW 9/15/09
ME0101320	Bailyville	Yes 10/21/09	N/A
ME0002160	Verso Bucksport	Yes 8/19/09	N/A
ME0100200	Town of Eastport	Yes 4/28/09	NOV 9/22/09 NOV 1/29/09
MEG130001	Atlantic Salmon of Maine	Yes 3/18/09	N/A
ME0001937	Verso Androscoggin	Yes 6/24/09	N/A
ME0101907	Town of North Haven	Yes 9/9/08	LOW 10/23/08 LOW 12/9/08
ME0100595	Town of Rockland	Yes 11/19/09	LOW 3/20/09
ME0102491	Town of Vinalhaven	Yes 9/29/09	LOW
ME0100935	Kennebunk Sewer District	Yes 6/20/09	NOV 8/12/09
ME0110221	Bayley's Quality Seafood	Yes 2/5/09	N/A
ME0100102	Brunswick Sewer District	Yes 9/23/09	N/A
ME0101478	Lewiston Auburn WPCA	Yes 12/10/08	N/A
ME	Biddeford & Saco Water Co.	Yes	N/A
ME0000710	Bumble Bee Foods (Stinson Seaford)	No	LOW 3/10/09
ME0002003	Lincoln Pulp and Paper	Yes 6/12/09	N/A
ME0002534	Myllykoski North America	Yes 3/3/09	NOV 5/28/09

Resource Conservation and Recovery Act

#	EPA ID#	Company Name	City	SNC	Informal Action	Formal Action	Penalty	Select
1	MER000506741	Northeast Packaging	Presque Isle	yes	yes	yes	yes	Representative by file selection tool
2	MER000506253	Southern Maine Medical Center	Biddeford	yes	yes	yes	yes	Supplemental selected file
3	NED019051069	ENPRO Services	South Portland	yes	yes	yes	yes	Representative by file selection tool
4	MED985467562	Praxair Surface Technologies	Biddeford	no ²	yes	yes	yes	Representative by file selection tool
5	MED042141341	Saunders Brothers	Greenwood	yes	yes	yes	yes	Representative by file selection tool
6	MER000506519	Modern Woodcrafts	Lewiston	yes	yes	yes	yes	Representative by file selection tool
7	Non-notifier	Keystone Automotive	Portland	yes	yes	yes	yes	Supplemental selected file
8	MED071746689	Spray Maine	South Berwick	no ³	yes	yes	yes	Representative by file selection tool
9	MER000507350	Ocean Point Marina	Boothbay	no	yes	no	no	Representative by file selection tool
10	MED037719846	Department of Veterans Affairs	Augusta	no	yes	no	no	Representative by file selection tool
11	MED980912497	Wise Business Forms	Portland	no	yes	no	no	Representative by file selection tool
12	MER000503995	Katahdin Analytical Services	Scarborough	no	yes	no	no	Representative by file selection tool
13	MER000503235	Rite Aid 3491	Damariscotta	no	yes	no	no	Representative by file selection tool

² File was determined by HWCE to be a SNC, but was not reported in National RCRIS database as a SNC

³ File was determined by HWCE to be a SNC, but was not reported in National RCRIS database as a SNC

APPENDIX G: FILE REVIEW ANALYSIS

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

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

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

Clean Air Act

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	38.9%	A total of 7 out of the 18 files reviewed reflected consistent MDR data when compared to the AFS/OTIS database. Compliance status inconsistencies were found in a total of 6 out of the 18 files and associated OTIS detailed facility reports reviewed, or 33.33%, (one of these compliance status inconsistencies was a result of the automatic compliance status change from “in compliance” to “Unknown” when an FCE inspection was not conducted within the appropriate CMS frequency and another compliance status inconsistency dealt with a database logic issue regarding stack testing in which the demonstrated control efficiency determined during a stack test was found to be above the required control efficiency and the test results were improperly reported as a violation because the database is set up for emission-based limits rather than control efficiency-based limits). The remaining four compliance status inconsistencies pertained to conflicting data found within different sections of OTIS detailed facility reports, where it did not appear that the compliance status of applicable air programs were being updated when there was a compliance status change made elsewhere in the reports. Five additional inconsistencies found between the MEDEP files and OTIS detailed facility reports included: an inconsistent penalty figure; an inconsistent applicability to a MACT standard (most likely due to the fact

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
			that the “Boiler MACT – Subpart DDDDD was vacated and OTIS was not updated to reflect this fact); and, three inconsistent inspection dates pertaining to one PCE and two FCEs.
Metric 4a	% of planned evaluations (negotiated FCEs, PCEs, investigations) completed for the review year pursuant to a negotiated CMS plan.	89.6% TV FCEs completed within CMS cycle 85.7% SM80 FCEs completed within CMS cycle 100% FCEs completed at NSPS and MACT facilities since October 1, 2005	MEDEP committed to following its CMS plan. The plan includes several facilities that are considered “Mega-Sites” that are on a three year inspection cycle. Based on additional information provided by MEDEP, it appears that MEDEP has conducted FCEs at a total of 60 out of a total of 67 Title V facilities within the proper CMS cycle, or 89.6% (this percentage would increase to 91.0% if it is assumed that MEDEP has reviewed annual Title V compliance certifications for Daaquam Maine in calendar years 2008 and 2009 that would count as “off-site” FCEs for this closed facility retaining its license.) The national average was reported in the OTIS SRF Results database to be 87.7%. Based on additional information provided by MEDEP, it appears that MEDEP has conducted FCEs at 48 out of a total of 56 SM80 facilities within the proper CMS cycle, or 85.7%. The national average was reported in the OTIS SRF Results database to be 83.4% based on the five-year CMS cycle and 90.3% based on the last full five years. Based on EPA’s review, it was determined that MEDEP and/or EPA conducted FCEs at 100% of the 11 NSPS facilities and 49 MACT facilities reported in the OTIS SRF Results database as having not had an FCE since October 1, 2005.
Metric 4b	Delineate the air compliance and enforcement (c/e) commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The C/E commitments should be delineated.	117.17% TV FCEs completed when compared to PPA commitment for FFY 2009 145.45% TV FCEs completed when compared to CMS Plan for FFY 2009 141.67% SM80 FCEs completed when compared to CMS Plan for FFY 2009 189.52% Synthetic	MEDEP conducted 48 FCE inspections at Title V major source facilities in FFY 2009. It committed in its PPA to conducting 41 FCE inspections at such facilities. Therefore, MEDEP surpassed both this PPA commitment and the CMS policy requirements regarding Title V source inspection frequency for FFY 2009 (taking into account Maine’s 11 mega-sites that are on a three year inspection frequency, MEDEP is required to conduct FCE inspections at approximately 33 Title V major source facilities per year.) Therefore, MEDEP conducted major source FCEs at 117.17% (48/41) of Title V major sources it committed to in its PPA with EPA and conducted major source FCEs at 145.45% (48/33) of Title V major sources it committed to based on the CMS Policy, for FFY 2009, alone. MEDEP conducted 17 FCE inspections at SM80 facilities in FFY 2009. The CMS policy requires that FCE inspections be conducted at 20 percent of SM80s facilities each year. The OTIS SRF Results database reports that Maine has 58 such facilities. Therefore, based on the CMS policy, MEDEP was required to conduct FCE inspections at 12 SM80 sources in FFY 2009. Therefore, MEDEP surpassed this CMS policy commitment by conducting FCEs at 141.67% (17/12) of its SM80 sources for FFY 2009, alone.

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
		and True Minor FCEs completed when compared to PPA commitments 57.14% HPVs without timely formal enforcement action 100% of HPVs not identified as HPVs in AFS within 60 days of violation discovery	MEDEP conducted 17 FCE inspections at SM80 sources and 182 FCE inspections at other synthetic minor and true minor sources for a total of 199 FCE inspections at all synthetic minor and true minor facilities. In its PPA with EPA, the MEDEP committed to conducting 105 FCE inspections at synthetic minor and true minor sources. Therefore, MEDEP surpassed this PPA commitment by conducting FCEs at 189.52% (199/105) of its synthetic minor and true minor sources for FFY 2009. MEDEP was found to always take appropriate enforcement once violations were identified, however, for the review period, MEDEP did not consistently meet the timeliness guidelines set forth in EPA's "Timely and Appropriate" guidance document. In 4 out of the 7 enforcement files reviewed for HPVs (note that Pleasant River Lumber and Trombley Industries were not classified as HPVs so that the Timely and Appropriate" requirements do not apply to these two sources), MEDEP did not address the violations within 270 days of the violation discovery date ("Day 0"). Specifically, MEDEP did not address the violations occurring at Domtar Corporation (this was actually a FFY 2010 HPV, however, since the violations occurred in FFY 2009 it was included as part of this review), Huber Engineered Wood, Madison Paper (this was actually a FFY 2008 HPV, however, since the resolving action (Administrative Consent Agreement) occurred in FFY 2009, it was included as part of this review), and Mid Maine Waste Action Corporation. The addressing and resolving actions for Domtar Corporation, Huber Engineered Wood, Madison Paper, and Mid Maine Waste Action Corporation occurred approximately 394, 309, 494, and 461 days after "Day 0", respectively. A total of 4 out of the 7 enforcement case files reviewed for HPVs, or 57.14%, indicated that the MEDEP had not addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA's "Timely and Appropriate" guidance. Based on EPA's review, it was determined that six out of a total of six HPVs, or 100%, were not identified as such in AFS within 60 days of discovery as required.
Metric 6a	# of files reviewed with FCEs.	12	A total of 12 out of the 18 files reviewed included FCEs and inspection reports, or 66.67% of the files reviewed. A total of 11 out of the 12 inspection reports, or 91.7%, were completed within a month of the applicable FCE. A total of 1 out of the 12 inspection reports, or 8.3%, were completed within two months of the applicable FCE. (Please note that the File Selection Tool indicated that an FCE was conducted at Moose River Lumber of Moose River, Maine in FFY 2009. This is inaccurate. The last FCE at this facility was performed on September 24, 2007.)

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	0.0% Based on CMR Report Reviews	This is a difficult metric to measure because of deficiencies found in the CMR reports. Two reports indicate overall compliance with overarching statements such as “all items observed at the time of inspection appeared to be in compliance...” or “the facility was found to be in compliance with the terms and conditions of their air license...” These types of statements do not make it clear as to whether the inspector looked at all equipment with related license requirements. In addition, all 10 of the remaining CMR reports were found to lack findings for some equipment and/or pertinent license requirements. MEDEP is currently working to resolve the issues found with its CMR reports.
Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	Notwithstanding the issues discussed in Metric 6b, above, 9 out of a total of 9 enforcement files reviewed did provide sufficient documentation of the violations discovered.
Metric 7a	% of CMRs or facility files reviewed that led to accurate compliance determinations.	100%	Based on the information found in the 18 files reviewed, including the CMR reports for the 12 files where FCEs were conducted, MEDEP is making accurate compliance determinations.
Metric 7b	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	81.82%	A total of 11 out of the 18 files reviewed were for non-HPVs. A total of 9 out of the 11 non-HPV files reviewed had consistent compliance status information when compared to the associated OTIS detailed facility reports. (Please note there was an additional compliance status inconsistency that was discounted because it was for a source that the MEDEP files indicated was “in compliance” and the associated OTIS detailed facility report indicated was “unknown” due to the fact that the facility did not receive an FCE within the required two year CMS cycle for a Title V source, and thus, AFS/OTIS automatically changed the compliance status to “unknown”.) Because this inconsistency did not require MEDEP to make any report to AFS, the metric value of 81.82% is being used.
Metric 8h	% of violations in files reviewed that were accurately determined to be HPV.	100%	Based on EPA’s review of 9 enforcement case files, EPA determined that MEDEP is accurately determining HPVs.
Metric 9a	# of formal and informal enforcement responses reviewed.	18	Based on the 9 enforcement case files reviewed, a total of 9 Notices of Violation and a total of 9 Consent Agreements were reviewed (one Notice of Violation and one Consent Agreement for each enforcement case file reviewed.) Please note that not all enforcement actions reviewed occurred in federal fiscal year 2009, but because these actions were associated with activities that did take place in federal fiscal year 2009, EPA believed it was necessary to review these enforcement actions as well.

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 9b	% of formal enforcement responses that have returned or will return a source to physical compliance.	100%	In all the applicable files reviewed, MEDEP required the necessary injunctive relief to return a facility to compliance within a specified timeframe to ensure a violating facility returned to compliance expeditiously.
Metric 10e	% of HPVs reviewed that are addressed in a timely manner.	42.86%	A total of 3 out of the 7 enforcement case files reviewed for HPVs indicated that MEDEP had addressed the HPV violations within the appropriate time frame of 270 days, as required by EPA’s “Timely and Appropriate” guidance. MEDEP is, in some cases, allowing an HPV source too much time to submit an approvable SEP that is resulting in the untimely issuance of formal (addressing and resolving) enforcement actions (Administrative Consent Agreements). In addition, it appears that MEDEP is hesitant to identify additional or subsequent HPV discovery dates, or “Day 0s” for a given HPV source once additional violations are discovered based on MEDEP due diligence that entails further investigation into an HPV source to determine whether additional violations exist based on CEM data, or other data. In addition, it appears that MEDEP is hesitant to issue numerous, formal enforcement actions for a given HPV source once additional violations are discovered and prefers to hold up the initial, formal enforcement action until such time that all the original and additional violations discovered for a given HPV are fully documented and supported and can be incorporated into one formal enforcement action. MEDEP’s rationale for limiting the number of formal enforcement actions it issues to a given HPV source is limited resources. MEDEP has only two persons on their CAA enforcement staff, as such; MEDEP needs to streamline how they process enforcement actions.
Metric 10f	% of enforcement responses reviewed at HPVs that are appropriate. The number of appropriately addressed HPVs over the number of HPVs addressed during the review year.	100%	Formal enforcement was taken against all 7 HPVs for which enforcement files were reviewed. Penalties have been collected, in full, from all 7 HPV facilities.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	A total of 9 out of 9 enforcement case files reviewed, or 100%, included actions where penalties were sought and obtained. A total of 9 out of 9 enforcement files reviewed, or 100%, included actions where the gravity portion of a penalty was properly calculated using the MEDEP penalty worksheet. A total of 0 out of 9 enforcement case files reviewed, or 0%, required the assessment of an economic benefit penalty because such a penalty was considered insignificant (less than \$5,000). Most of the violations were for things such as sporadic CEM pollutant exceedances; CEM monitor downtime; “failed” stack tests where retests demonstrating compliance occurred expeditiously (within 1 to 2 months) and required just minor adjustments to the applicable process and/or control equipment;

CAA Metric #	CAA File Review Metric:	Metric Value	Initial Findings and Conclusions
			recordkeeping and reporting; and, failure to conduct “visible emission” readings. There was no information in the file indicating MEDEP’s rationale for not seeking economic benefit (for instance there was nothing in the file that indicated that there was no economic benefit associated with the given violation(s) or that the economic benefit was insignificant – less than \$5,000). However, the MEDEP’s Bureau of Air Quality Monetary Penalty Calculation Guidance Worksheet does include, within a table, a line item that discusses penalty adjustment factors used for “Financial Gain”. In discussing with MEDEP the need to provide a rationale for not seeking economic benefit in the file for a particular case, EPA requested that, at a minimum, MEDEP complete the “Financial Gain” portion of the penalty worksheet for all HPV sources that provides a short description or rationale for not seeking such a penalty. MEDEP agreed to do this in the future.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	Of the 9 enforcement case files reviewed, 3 of the facilities settled with no reduction in penalty and 6 facilities negotiated a penalty reduction. All 5 enforcement case files reviewed, for facilities where the final penalty was reduced, included penalty reduction/mitigation memos describing MEDEP’s rationale for reducing its proposed penalty. (Please note that at the time of the SRF file review (July 2010) the case against Domtar Corp. had yet to settle so there was no penalty reduction memo to review.)
Metric 12b	% of files that document collection of penalty.	100%	For each of the 8 enforcement case files reviewed where a penalty had been collected (please note that at the time of the SRF file review (July 2010) Domtar had yet to settle so there was no penalty payment documentation to find in the enforcement case file), a copy of the penalty check was included in the enforcement case file that indicated that the penalties had been paid in full. The data metrics indicate that MEDEP is seeking penalties 100% of the time in its formal enforcement actions against HPVs.

Clean Water Act

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2b	% of files reviewed where data is accurately reflected in the national data system.	33%	Seven of the 21 files reviewed had data accurately entered in the national system. Several were missing inspection information and one was missing information regarding a consent agreement.
Metric 4a	Planned inspections completed	Yes	Maine met and exceeded their inspection numbers for FY 2009. (see attached Metric 4a summary table)
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished.	100%	Maine met and exceeded the inspection commitment in there PPA. Maine conducts compliance evaluation inspections at roughly 65% of all majors each year. Minors are inspected once every 5 years. The state is doing the inspections but needs to do a better job of getting the inspections into the national data base. The state does many types of inspections only those that are considered compliance evaluation inspections are uploaded into the national system. Many facilities are inspected several times per year but the inspections are not entered into the national system. EPA will work with Maine to better understand what inspections need to be entered into the national system.
Metric 6a	# of inspection reports reviewed.	19	
Metric 6b	% of inspection reports reviewed that are complete.	0%	According to the checklist no inspection reports were complete. The items that made the inspections incomplete were missing: permit numbers, contact information, time of inspection, signatures, dates, purpose of inspection. The overall inspection reports were excellent, the absence of these items however made them incomplete
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.	68%	13 of 19 inspection reports provided sufficient information to make an accurate compliance determination. Some reports were short checklist specific to a single area of the operation, one inspection report was only a paragraph long (for a minor). The specific check list gave you a good feel for compliance in that area but not overall plant compliance.
Metric 6d	% of inspection reports reviewed that are timely.	68%	13 of 19 inspection reports. Five reports did not have a date so it was not possible to determine when it was written and one report was written 33 days after the inspection. Typically 30 days is the timeframe we look at in order to be timely.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	86%	13 of 19 inspection reports. The state does an excellent job of writing up their discrepancies and recommendations after an inspection report and sending that information to the facility for follow-up.

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 8b	% of single event violation(s) that are accurately identified as SNC	5/5 or 100%	Of the 5 single event violations identified in the inspection reports none were SNC. The region reviewed the single event violations and agrees with conclusions drawn by the state inspectors.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	5/5 or 100%	None of the single event violations were identified as SNC therefore none needed to be reported into the data system.
Metric 9a	# of enforcement files reviewed	16	2 consent agreements, 9 NOV's Notice of Violation 5 LOW's Letter of Warning
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	
Metric 9c	% of enforcement responses that have returned or will return a source with non-SNC violations to compliance.	100%	
Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a timely manner.	88%	One out of the 9 actions that addressed SNC was taken late. The late action was a NOV sent in January 2009 to EastPort for missing DMRs for the months of May thru December 2008. All other actions were taken in a timely manner.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	88%	One out of the 9 actions was not appropriate. Twin Rivers paper mill spilled roughly 4000 gallons of latex to the river. This was resolved with an NOV and consent agreement with a penalty. Myllykoski North America had a discharge of roughly 10,000 lbs of wood pulp to the river and it was addressed with an NOV. These appear to be similar type violations (unlicensed discharges) but only one received a penalty.
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	The non SNC violations were addressed appropriately

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	66%	There were 3 facilities reviewed that had Non SNC violations.(Tate& Lyle, Vinalhaven and Contract Farming of ME) Contract Farming of ME had 1 LOW, 3 NOVs and one Consent Decree. The LOW was issued in August, 2006 and the Consent Decree was signed in May 2009.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	The Two cases reviewed with penalties both had appropriate economic benefit and gravity considerations
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	Neither of the 2 enforcement actions had a penalty rationale for the initial and final penalty amount
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100%	Both files reviewed had copies of the penalty payment checks made out to the state treasurer

Resource Conservation and Recovery Act

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system.	92%	13 files were reviewed. 11 of the 13 files were accurately reported into RCRIS. One file reviewed did not have the enforcement action in RCRIS, but did identify the violations in RCRIS (Praxair Surface Technologies, MED985467562). Review of MEDEP's files included a copy of a Notice of Violation, with enforcement intent that was issued to the facility on April 27, 2009. This facility was not determined to be a SNC, but based on the violations, should have been. Discuss with Mike Hudson. Also, one of the selected files was a facility that is not required to have an EPA ID# so it is not reflected in RCRIS, but could be issued as EPA ID# so its activities could be reflected in the national database. This facility should have been determined to be a SNC (Keystone Automotive Industries, Portland).
Metric 4a	Planned inspections completed	150%	MEDEP's 2009 grant commitments require them to complete the following inspections (# actually completed is in parenthesis in bold): 2-TSDs (1) 2-universal waste/transporter (4) 14-LQGs (14) 10-100-1000kg/month generators (27) 10-non-notifiers (28) 1-Land Disposal facility (1) 2-habitual violators/follow-up (4) 1-hazardous waste transporter (1) 30-complaint inspections (28)
Metric 4b	Planned commitments completed		Planned commitments for the RCRA enforcement program include only the inspection requirements. Appropriate enforcement responses should be undertaken by the Program. Enforcement action timeliness and appropriateness is discussed below.
Metric 6a	# of inspection reports reviewed.	18	Inspection reports for all of the thirteen facilities selected were reviewed. In some instances, older inspection results were also reviewed in order to better understand the facility's history with MEDEP. The files selected reflect the full range of MEDEP's RCRA facilities and the associated enforcement responses available to MEDEP.
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	100%	Inspection reports sufficiently document observations and include checklists, narratives, drawings and photographic evidence. The reviewed reports allow the reader that is not familiar with the facility to understand the observations made during the inspection. The quality of MEDP's inspection reports is one of the program's strengths.
Metric 6c	Inspections reports completed within a determined time frame.	100%	MEDEP staff is routinely timely in completing inspection reports. Trip reports for the files reviewed ranged from being completed as soon as 7 days after the inspection to as long as 90 days after the inspection. The average number of days between the date of the inspection and the completion of the reviewed trip reports was approximately 34 days
Metric 7a	% of accurate compliance determinations based on inspection reports.		<i>Of the thirteen enforcement actions reviewed, the enforcement action selected for one inspection (Praxair Surface Technologies, MED985467562) and in the State files had a copy of a Notice of Violation, with enforcement intent, issued to the facility on April 27, 2009. This file was also not determined to be a SNC, but based on the violations, should have been. Also, one of the selected files was a facility that is not required to have an EPA ID# so it is not reflected in RCRIS, but could be issued as EPA ID# so its activities could be reflected in the national database. This</i>

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
			<i>facility should be viewed as a SNC (Keystone Automotive Industries, Portland).</i>
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).		MEDEP generally does a very good job in determining the compliance status of inspected facilities in a timely manner. In each of the thirteen files reviewed, a Notice of Violation was issued, (RCRIS code 120). The average time between the inspection and issuing the 120 enforcement action was 62 days. <i>Six files reviewed included enforcement beyond the initial NOV (RCRIS code 310). The average time between the inspection and t310 enforcement action was 393 days. It should be noted, one enforcement action (Modern Woodcrafts, MER000506519) was an outlier from the other 5 actions, and if not considered the average enforcement time to issue the 310 enforcement action would have been 255 days.</i>
Metric 8d	% of violations in files reviewed that were accurately determined to be SNC.	62.5%	Of the thirteen files reviewed, one facility was a non-notifier, and not required to have an EPA ID#, so it was not in RCRIS, despite having SNC-type violations (Keystone Automotive Industries). Because of the seriousness of the documented violations, this facility could have been issued an EPA ID# for tracking purposes and so it could be characterized as a SNC. Of the remaining 12 files reviewed, five were SVs, five were properly characterized by MEDEP as SNCs, and three were characterized as SVs, but should have been characterized as SNCs (Praxair Surface Technologies, 3491, Spray Maine, Inc, and the previously discussed Keystone Automotives).
Metric 9a	# of enforcement responses reviewed.	18	Six formal penalty actions, Twelve non-formal actions
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	Of the 5 SNCs in the reviewed files, all had returned to compliance and were reported in RCRIS.
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	5/7 71.4%	Seven of the thirteen files reviewed were identified by MEDEP as secondary violators. One of these seven facilities identified violations (Praxair Surface Technologies), but RCRIS did not include an enforcement action for the cited violations, so for the purpose of this matrix is considered as not having fulfilled the measurement because an enforcement action did not bring the company back into compliance. (It should be noted, the violations were listed in RCRIS and were all tracked as having come into compliance). One of these facilities had open violations that had not returned to compliance (Rite Aid 3491) The remaining five remaining SVs had all been returned to compliance through the issued enforcement.

RCRA Metric #	RCRA File Review Metric:	Metric Value	Initial Findings and Conclusions
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner.	13/13 92.3%	In each of the thirteen files reviewed, a Notice of Violation was issued, (RCRIS code 120) . The average time between the inspection and issuing the 120 enforcement action was a timely 62 days. Six files reviewed included enforcement beyond the initial NOV (RCRIS code 310). The average time between the inspection and the 310 enforcement action ranged from 219 days to 1083 days. The average length of time was 393 days. It should be noted, one enforcement action (Modern Woodcrafts, MER000506519) was an outlier from the other 5 actions, and if not considered the average enforcement time to issue the 310 enforcement action would have been a timely 255 days.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	11/13 84.6%	Of the thirteen files reviewed, one inspection conducted at a non-notifier resulted in a formal administrative consent order, with penalty. Of the remaining 12 files reviewed, five were properly characterized as SVs, 5 were properly characterized as SNCs, and two were characterized as SVs, but should have been characterized as SNCs (Praxair Surface Technologies, Spray Maine, Inc).
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	2/6 ⁴ 33.3%	Four of the six penalty actions reviewed include a table to summarize matrix cells, (harm/deviation), economic benefit, penalty amount, and adjustments. Two of the selected penalty actions did not include any information about how the penalty was developed for the action (Keystone Automotive, Southern Maine Medical Center). In the other 4 penalty actions, one legitimately did not have any violations that warranted an economic benefit calculation (ENPRO). In the remaining three penalty actions, one appropriately calculated and described economic benefit (Modern Woodcrafts) Of the remaining two facilities, one facility included a value in the table for economic benefit, but did not describe how this value was calculated (Saunders Brothers). One penalty action did not include economic benefit for a violation that warranted a calculation (Northeast Packaging's transportation of hazardous waste without a license). <i>It should be noted, that MEDEP does not appear to use the EPA BEN model to calculate economic benefit and therefore may not be accurately considering the time/value of money for violations that have costs that have been deferred and/or avoided.</i>
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0/6 0%	Two of the selected penalty actions did not include any information about how the penalty was developed (Keystone Automotive, Southern Maine Medical Center). None of the remaining four files with penalties documented the difference and rationale between the initial penalty and final assessed penalty. Additionally, MEDEP does not report initially proposed penalty numbers in RCRIS, rather the only reported number in RCRIS is the final penalty number.
Metric 12b	% of files that document collection of penalty.	100%	All of the reviewed penalty files documented penalty collections and any dates that payments were due/received.

⁴ Because two of the files did not include any penalty information, this number could be as high as 66.6% if the information exists in another location



APPENDIX G: CORRESPONDENCE

Kick-off letter to ME DEP, March 23, 2010

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
1 Congress Street, Suite 1100
BOSTON, MA 02114-2023**

Mr. David P. Littell, Commissioner
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Dear Mr. Littell:

Through this letter, EPA Region 1 New England (Region 1) is initiating a review of the Maine Department of Environmental Protection (ME DEP) RCRA Subtitle C Enforcement, Clean Water Act NPDES Enforcement and Clean Air Act Stationary Source Enforcement Programs. We will review inspection and enforcement activity from Federal Fiscal Year 2009.

In 2007, EPA regions completed the first round of reviews using the State Review Framework (SRF) protocol. This work created a baseline of performance from which future oversight of state compliance and enforcement programs can be tracked and managed. In 2008, the first round of reviews was evaluated and a work group composed of EPA headquarters, regional managers and staff, ECOS, state media associations, and other state representatives revised the SRF elements, metrics, process and guidance.

In the second round of the SRF (SRF/2), the review cycle has been extended by a year such that all states will be reviewed within a 4 year cycle, or by the end of Fiscal Year 2012.

SRF/2 is a continuation of a national effort that allows Region 1 to ensure that ME DEP meets agreed upon minimum performance levels in providing environmental and public health protection. The review will include:

- ▶ examination of inspection and enforcement activity from Federal Fiscal Year 2009 and any available more recent information on current operations,
- ▶ discussions between Region 1 and ME DEP program managers and staff,

- ▶ review of selected ME DEP inspection and enforcement files and policies,
- ▶ examination of data in EPA and ME DEP data systems, and
- ▶ review of ME DEP's follow-up to the recommendations made by Region 1 after SRF/1.

Region 1 and ME DEP have the option of agreeing to examine state programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, and innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome ME DEP suggesting other compliance programs for EPA review.

We expect to complete the ME DEP review, including the final report, by October 31, 2010.

Our intent is to assist ME DEP in achieving implementation of programs that meet federal standards and are based on the goals we have agreed to in ME DEP's Performance Partnership Agreement. Region 1 and ME DEP are partners in carrying out the review. If we find issues, we want to address them in the most constructive manner possible.

Region 1 has established a cross-program team of managers and senior staff to implement the ME DEP review. Mark Mahoney will be Region 1's primary contact for the review. He will lead the review team, directing all aspects of the review for the Region. Sam Silverman, Deputy Director, Office of Environmental Stewardship, is the Region 1 senior manager with overall responsibility for the review. The program experts on the review team will be:

- Drew Meyer, RCRA
- Doug Koopman, Clean Water Act
- Tom McCusker, Clean Air Act

I hope to meet with you and your senior managers to go over the review expectations, procedures, and schedule. Our review team will participate in this meeting and we hope that ME DEP managers and staff involved in the review can join us.

The SRF/2 protocol includes numerous program specific worksheets, metrics, and report templates that Region 1 and ME DEP will use to complete the review. We believe it will assist us in carrying out an efficient, focused review. All of these materials have been developed jointly by EPA regional and HQ staff and numerous state officials.

Attachment A, with this letter, transmits the Official Data Set (ODS) that will be used in the review, the files that have been selected for review, and our focus areas for the upcoming on-site file review. Please respond by April 2, 2010 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.

EPA has designed the SRF Tracker as a repository for holding all SRF products including draft and final documents, letters, data sets, etc. It is also a management tool used to track the progress of a state review and to follow-up on the recommendations. Regions will enter and

update all information for their states in the SRF Tracker. OECA will use the Tracker to monitor implementation of SRF/2. States can view and comment on their information securely on the internet.

We look forward to working with you on this project.

Sincerely,

Susan Studlien, Director
Office of Environmental Stewardship

Attachment A: Official Data Set

cc: By E-mail
Peter Carney, Director, Office of Procedures and Enforcement
Curt Spalding, Regional Administrator
Ira Leighton, Deputy Regional Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1

ATTACHMENT A

The Official Data Set (ODS) was pulled from the Online Tracking Information System (OTIS) Web site. We also will send an electronic version in Excel format by email. States can access these reports online with additional links and information on the OTIS site. (Note that the data may slightly change after each monthly data refresh.)

Please confirm that the data shown in the enclosed ODS spreadsheet accurately depicts state activity. Please pay particular attention to numbers shown under Elements 1 and 2. For example, do you agree with the number of inspections performed, violations found, actions taken, etc.? Significant discrepancies could have a bearing on the results of the SRF/2 review. If significant discrepancies exist (i.e., the state count of an activity is +/- 10 percent of the number shown, or the facility lists accessed in OTIS for a particular metric do not closely match state records), please note this on the spreadsheet in the columns provided to the right of the data. Please note that you do not need to provide exact counts when your numbers do not differ much from those provided – minor differences in the numbers are often the result of inherent lags between the time a state enters data in its system and when the data is uploaded to the program system and OTIS.

We encourage you to document significant differences between EPA and state numbers using the reporting format included with the spreadsheet. There are two major reasons for this. (1) It is important for EPA to understand these differences in the course of its work. (2) In the event of a Freedom of Information Act (FOIA) request, the official record would include the disputed number along with the correct number according to the state and an explanation of the discrepancy.

If you would like to get a sense of the facilities behind the numbers shown, you can use OTIS (<http://www.epa-otis.gov/otis/stateframework.html>). SRF data metrics results are shown on the OTIS SRF Web site on the first screen that is returned after a search is run. Lists of facilities that make up the ODS results are provided in most cases by clicking an underlined number. (Please note that OTIS data are updated monthly, so differences may exist between the hard copy and the site.) If core inspection, violation, or enforcement actions totals shown on the spreadsheet are not close to what you believe the true counts to be, please consider providing accurate facility lists to assist us with file selection.

Please respond by April 2, 2010 with an indication that you agree with the ODS or with a spreadsheet indicating any discrepancies. Please send your response by e-mail to Mark Mahoney (Mahoney.mark@epa.gov). If you do not respond by this date, we will proceed with our preliminary data analysis under the assumption that the ODS is correct.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

FEB 03 2012

Ms. Patricia W. Aho, Commissioner
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Dear Ms. Aho:

Enclosed is an addendum to the Review of the Maine Department of Environmental Protection FY 2009 Enforcement and Compliance Programs prepared by the Region 1, New England Office of the U.S. Environmental Protection Agency. This addendum clarifies several issues and was drafted following consultation with the Office of Enforcement and Compliance Assurance (OECA) at EPA Headquarters.

EPA will post the addendum along with the report and recommendations on the Internet. Region 1 will follow up with Maine DEP on the recommendations and report their progress on the State Review Framework (SRF) Tracker.

Thank you for your continued cooperation on this project.

Sincerely,

Susan Studlien, Director
Office of Environmental Stewardship

cc: Pete Carney, Director of Procedures and Enforcement, Maine DEP

By E-mail
Curt Spalding, Regional Administrator
Ira Leighton, Deputy Regional Administrator
Region 1 New England Office Directors and Deputies
Lisa Lund, Director, Office of Compliance, OECA
Mark Mahoney, Region 1 New England

MEDEP Revised Findings – February 2, 2012

Program	Element & Page	Finding 9/29/11	Finding 2/2/12	Explanation
CAA	4.2 - Completion of Commitments Page 35	Area for State Attention	Area for State Improvement	Add a new sentence at the beginning of the recommendation. "MEDEP will address the issues described in this Element when it completes the recommendations in other Elements described below. No other steps are required to address this issue in Element 4.2."
CAA	6.1 – Quality of Inspection of Compliance Evaluation Reports Page 37	Area for State Improvement	No Change	In the Metrics and Quantitative Values Box, for Metric 6a, delete "66.7%" and insert "12."
CAA	8 – Identification of SNC or HPV Page 44	Area for State Attention	No Change	Delete paragraph 3 of the findings and insert the following. "During FFY 2009, MEDEP made EPA aware of the continuing issues it was having entering HPV data into EPA's AFS database. MEDEP has been experiencing problems with the "Universal Interface" that is needed to upload data, such as HPV data, from MEDEP's AECTS database to EPA's AFS database since 2006. When the issue was first identified, MEDEP had sought help from EPA's AFS hotline to resolve the issue; unfortunately, MEDEP continued to have problems uploading data. This issue was discussed in the MEDEP SRF report in 2007. A recommendation was made at that time requiring MEDEP to make a decision as to whether to continue entering HPV data themselves or to provide the HPV data to EPA so EPA could enter the data directly into AFS. Some progress was made in addressing the data transmission issues by September, 2008; however MEDEP continued to experience difficulties with Universal Interface, which they reported to Region 1 during regular oversight meetings. To resolve this in June 2010, MEDEP and EPA mutually agreed that EPA would resume responsibility for entering HPV information into AFS. This and the monthly HPV discussions between MEDEP and EPA have resolved this issue."

Program	Element & Page	Finding 9/29/11	Finding 2/2/12	Explanation
CWA	3 – Timeliness of Date Entry Page 54	Area for State Attention	Area for State Improvement	Region 1 amends the last paragraph of the Finding to read "Evaluation of this Element indicates a finding "Area for State Improvement." Add to Recommendation Box: Because MEDEP has already addressed the matter, Region 1 has determined the recommendation below was completed prior to September 29 2011."

CWA	6 - Quality of Inspection of Compliance Evaluation Reports Page 58	Area for State Attention	Area for State Improvement	Region 1 amends the last paragraph of the Finding to read "Evaluation of this Element indicates a finding "Area for State Improvement." Add to Recommendation Box: Because MEDEP has already addressed the matter, Region 1 has determined the recommendation below was completed prior to September 29 2011."
CWA	8 - Identification of SNC or HPV Page 60	Area for State Improvement	Area for State Improvement	Delete the last sentence of the second paragraph in the findings box. Delete the recommendation and insert "By June 1, 2012, Region 1 will provide MEDEP with written guidance to regarding entry of SEV's in the data system. By August 31, 2012, MEDEP will develop a standard operating procedure (SOP) on entering the SEVs that is consistent with Region 1's guidance."

Program	Element & Page	Finding 9/29/11	Finding 2/2/12	Explanation
RCRA	General	N/A	N/A	In all instances the acronym "RCRIS" would be replaced by RCRAInfo. RCRIS is the name of an older version of the RCRA national data base. The correct name of the current RCRA national data base is RCRAInfo.
RCRA	8 - Identification of SNC or HPV Page 70	Area for State Attention	Area for State Improvement	Add a new sentence to the Findings "Given metric 8d combined with non-reporting of SNCs, the finding should be "State Improvement." Add to Recommendation Box: "Region 1 recommends that MEDEP develop a Standard Operating Procedure (SOP) for the program to ensure that SNCs are consistently entered into the RCRAInfo database in a timely manner after identification. This SOP should be implemented by the program by June 30, 2012."
Appendix	Page 106	N/A	N/A	In the Table labeled Resource Conservation and Recovery Act beginning on this page there should be a column headed "State Correction." MEDEP did not provide corrected metric values. That column was not included in the appendix for formatting purposes. The Maine DEP responds as follows: In the draft SRF documents circulated by EPA to MEDEP for review and comment and/or for completion, the column "State Corrections" never appeared in the RCRA table referenced. Since the column never appeared on the draft SFR, MEDEP was never afforded the chance or opportunity to comment or complete, and as such MEDEP did not comment on or complete such non-existent column.
Appendix	Page 127-128	N/A	N/A	In the column labeled "Metric Value" for Metric 7a, insert "92.3%" and for Metric 7b insert "92.3%."