Delaware Department of Natural Resources and Environmental Control
State Review Framework Report
For Fiscal Year 2008

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I. EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency, Region 3 conducted the State Review Framework (SRF) of Delaware Department of Natural Resources and Environmental Control (DNREC). The SRF reviewed DNREC's enforcement programs' performance for the Clean Air Act, Stationary Source; Resource Conservation and Recovery Act; and the Clean Water Act, National Pollutant, Discharge, Elimination System (NPDES). The review evaluated enforcement data and files from FY2008. This report summarizes findings from the review and planned actions to facilitate program improvements. In addition, this report also includes a summary of the actions DNREC has taken since FY2008 (FY2010-2012) to address issues EPA identified during the SRF.

Major Issues:

The review identified the following major issues:

CAA:

Element 2 Data Accuracy – Twelve of 21 files reviewed contained data inconsistencies between Air Facility System (AFS) and the Files. There is no one specific Minimum Data Requirement (MDR) that kept showing up as an inconsistency.

Element 3 Timeliness of Data Entry – The majority of Delaware's MDRs are not being entered into AFS in a timely manner. In particular, the reporting of owner/operator-conducted stack tests contributes the most to the low % of activities reported timely.

RCRA:

Element 10 Timely and Appropriate Action – Timeliness of formal enforcement actions is a concern and there were possibly three responses which were not appropriate for the violations identified.

NPDES:

Element 1Data Completeness - DNREC did not enter Single Event Violations (SEVs) or enforcement actions in the national database. The lack of SEV violation entry into the national data base is an outstanding finding from the first SRF review.

Element 10 Timely and Appropriate Action -The second SRF review found DNREC's NPDES program continuing the practice of conducting repeat inspections to encourage resolution of violations including Significant Noncompliance (SNC). The second round review also found that DNREC's NPDES program did not initiate independent, escalated enforcement since inception of the Management Agreement, in June 2006, a recommendation from Round 1.

As part of the Management Agreement, DNREC agreed to develop a Compliance and Enforcement Response Guide (CERG). DNREC submitted a draft CERG in December, 2010 which does not meet all of the criteria of a timely and appropriate enforcement policy. The Region continues to work with DNREC to finalize the CERG.

Summary of Programs Reviewed

Clean Air Act (CAA)

Good Practices: None

Areas for State Improvement Include:
Element 2 Data Accuracy – Stack tests are entered into AFS
Element 3 Timeliness of Data Entry
Element 7 Identification of Alleged Violations
Element 8 – Identification of High Priority Violator (HPV) – DNREC does a thorough job in making HPV determinations but does not always report HPVs to AFS in a timely manner.
Element 10 Timely and Appropriate Action – DNREC lags behind the national average in taking timely and appropriate enforcement action in accordance with HPV policy.

Areas Meeting SRF Requirements or With Minor Issues for Correction Include:
Element 1 Data Completeness
Element 4 Completion of Commitments
Element 5 Inspection Coverage
Element 6 Quality of Inspection Coverage or Compliance Evaluation Reports – Full Compliance Evaluations (FCEs) were complete.
Element 6 Quality of Inspection Coverage or Compliance Evaluation Reports – Two of 19 compliance monitoring reports did not contain all elements required.
Element 9 Enforcement Action Promotes Return to Compliance
Element 10 Timely and Appropriate Action
Element 11 Penalty Calculation Method
Element 12 Final Penalty Assessment and Collection

Resource Conservation and Recovery (RCRA)

Good Practices: None

Areas for State Improvement Include: (See Major Issues)

Areas Meeting SRF program requirements or with Minor Issues for Correction Include:

Element 1 Data Completeness
Element 2 Data Accuracy – All records, with the exception of compliance assistance visits were entered accurately.

Element 3 Timeliness of Data Entry
Element 4 Completion of Commitments
Element 5 Inspection Coverage
Element 6 Quality of Inspection or Compliance Evaluation Reports
Element 7 Identification of Alleged Violations
Element 8 Identification of SNC – DNREC generally met this element, although the facts in some of the cases make it difficult to make a definitive statement.
Element 9 Enforcement Actions Promote Return to Compliance
Element 11 Penalty Calculation
Element 12 Final Penalty Assessment and Calculation - DNREC documents penalty assessments which are then reviewed by a board consisting of the enforcement coordinator and senior managers from each program. The board decides what the final penalty will be, but does not document the calculations or justification for the final penalty.

Clean Water Act/National Pollutant Discharge Elimination System Program

Good Practices: None

Areas for State Improvement Include:
Element 1 Data Completeness – DNREC is not entering SEVs or enforcement actions into the national data base.
Element 3 Timeliness of Data Entry – DNREC is not entering SEVs or enforcement actions into the national data base.
Element 4 Completion of Commitments – DNREC did not complete the following commitments found in the 2006 Management Agreement with EPA: take timely and appropriate enforcement actions in response to violations identified in FY2008, did not enter required data into the Permits Compliance System (PCS) and has not completed the CERG agreed to in the Management Agreement.
Element 7 Identification of Alleged Violations Review team found one inspection report that did not comment on the compliance status, however, DNREC was not entering SEVs into the national database.
Element 8 Identification of SNC – DNREC did not enter any SEVs into the national database during the review year.
Element 10 Timely and Appropriate Action – The second SRF review found DNREC's NPDES program continuing the practice of conducting repeat inspections to encourage resolution of violations including SNC. The second review also found that DNREC's NPDES program did not initiate independent, escalated enforcement since inception of the Management Agreement, in June 2006, a recommendation from Round 1.
Element 11 Penalty Calculation - The administrative penalty documentation did not include economic benefit or gravity.

Areas meeting SRF program requirements or with minor issues for correction include:
Element 2 Data Accuracy
Element 5 Inspection Coverage
Element 6 Quality of Inspection or Compliance Evaluation Reports
Element 9 Enforcement Actions Promote Return to Compliance

Element 12 Final Penalty Assessment and Collection

CWA-Storm Water Review - On April 1, 1974 EPA delegated the NPDES program to DNREC, on May 4, 1983 and October 23, 1992, EPA approved revisions to this delegation, and then entered into the Memorandum of Agreement with DNREC for the State of Delaware. DNREC's Sediment and Storm Water program is delegated locally through eight agencies, one of which is the New Castle County Department of Land Use (NCCDLU). This was a targeted review of the NCCDLU stormwater program. The permits are minor and are not reported in the National Database. Therefore, there is no preliminary data report, data analysis, and no file review analysis in this report. The report contains the list of files reviewed and the findings and recommendations resulting from reviewing the NCCDLU files.

The problems which necessitate state improvement and require recommendations and actions include:
Element 10 Timely and Appropriate Action – SRF team observed two occasions where NCCDLU failed to take timely and appropriate enforcement.
Element 11 Penalty Calculation – The review team did not identify penalty actions that included gravity and economic benefit calculations in NCCDLU files.
Element 12 Final Penalty Assessment and Collection - The review team did not identify penalty actions that included gravity and economic benefit calculations in NCCDLU files.

Good Practices: None

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

Element 1 Data Completeness
Element 2 Data Accuracy
Element 3 Timeliness of data
Element 4 Completion of Commitments
Element 5 Inspection Coverage
Element 6 Quality of Inspection or Compliance Evaluation Reports – There were two distinctly different inspection reports that were documented and finalized on the same date.
Element 7 Identification of Alleged Violations
Element 8 Identification of SNC
Element 9 Enforcement Actions Promote Return to Compliance NCCDLU issued three consecutive Notice of Noncompliance (NON) to a site and could not determine if the facility returned to compliance.

Findings on DNREC's Actions After FY2008 SRF

The report also summarizes findings from the review and planned actions to facilitate program improvements. EPA conducted file reviews in FY2009 and identified major issues and areas for state improvement. A recent review of three years (FY2010 – FY2012) worth of data has shown improvement in several areas recommended for improvement. Listed below are the issues identified during the review for which DNREC has made progress toward improving performance.

CAA:

The Air Protection Division performed the State Review Framework file review based on FY 2008 data at the DNREC offices in June 2009. Since FY2008 the accuracy and timeliness of the data entry has improved. In 2008, the State's air enforcement data manager left and the function and responsibilities were split among two DNREC employees that were completely unfamiliar with the national air enforcement data base know as AFS. This is a very mature and complex data system and becoming adept with the nuances of the system takes time and use. Consequently, but not unexpectedly, there were some MDRs entered incorrectly and beyond the 60 day reporting requirement of AFS. Having analyzed three subsequent years of data entry, EPA has found the majority of MDRs are being entered timely and accurately (Elements 2 & 3).

RCRA:

In 2008 DNREC's RCRA program SNC identification rate was 1.8% which was less than half of the national average. In addition, DNREC did not take any formal enforcement actions during FY2008.

A review of the RCRA data indicates DNREC's SNC identification rate in FY2009 and FY2010 was acceptable. In FY2009 the SNC rate was 4.9% and 2.9% in FY2010. Formal actions increased since the review year as well. In FY2009 DNREC issued one formal action; one formal action in FY2010 and two formal actions in FY2011.

NPDES:

At the time of the SRF review DNREC was not entering informal enforcement actions and single event violations (SEVs) into the national data base. DNREC does enter informal enforcement actions into the state database, Waterscape. DNREC began uploading informal enforcement actions to the national data base beginning in FY2009 and SEV information into the national data base beginning in FY2010.

DNREC did not take any formal enforcement actions during FY2008 the review year for this SRF. Since the 2008 review, DNREC began identifying SNC violations in FY2009, (seven since 2009) and has addressed two facilities in SNC in FY2011. DNREC also issued two enforcement cases with significant penalties.

DNREC agreed to develop a CERG. DNREC submitted a draft CERG in December, 2010. The Region responded with comments and a second draft of the CERG was provided to the Region in December, 2011. The Region continues to work with DNREC to finalize the CERG.

II. BACKGROUND INFORMATION ON STATE REVIEW 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 to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a "national picture" of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

A. GENERAL PROGRAM OVERVIEW

Office of the Secretary/Department Management - The Office of the Secretary, through the Enforcement Coordinator position, sets department-wide enforcement and compliance policies and procedures for the various enforcement programs. While the divisions/programs have program-specific internal policies and procedures relating to enforcement and compliance, DNREC's Compliance and Enforcement Response Guide ("CERG") is the official, comprehensive guidance for its enforcement and compliance programs.

Enforcement Panel/Process When a violation is found during inspection and a notice of violation is issued to the facility, the case is then presented to the Enforcement Panel. The Panel is comprised of representatives from each media and it tasked with evaluating the case for appropriate enforcement. The Panel reviews violations brought to its attention to advise whether or not to pursue the recommended administrative and/or civil enforcement action. The Panel listens to the facts of the case presented, decides which enforcement mechanism is most appropriate for the circumstances of the case, decides whether corrective action should be taken to rectify the problem, and collectively determines the amount of the penalty that should be recommended.

The Enforcement Panel was created in the late 1980s to review potential enforcement actions and make recommendations to the Secretary. Members of the Enforcement Panel are senior managers from the Air, Waste and Water programs. A primary goal of the Panel was to promote consistency in the way enforcement actions were taken, as well as amounts assessed for administrative and civil penalties. The Panel meets on a monthly basis if there are cases to be discussed.

Upon conclusion of the Enforcement Panel meeting, a paralegal will review the enforcement packet, draft the appropriate legal document (i.e. Administrative Order, civil complaint), ensure that a copy of the minutes of the panel meeting and the panel's recommendation is attached to the packet, and forward the entire package to the Legal Office for review by a Deputy Attorney General.

The Delaware Department of Justice, Attorney General's Office assigns attorneys to its Environmental Unit to provide legal services to DNREC's Air, Water and Wastes programs. There are four Deputy Attorney Generals whose primary responsibility is to represent DNREC.

DNREC will post a listing on the Department's Internet website of all administrative, civil, criminal actions, notices of violations, and unclassified misdemeanors, taken after such actions have been issued. Staff with the Office of the Secretary will coordinate with the appropriate Division staff to ensure that the information posted on the website is timely, usually within three working days.

The Delaware Environmental Navigator (DEN) also located on the Department's website will allow the public to view all facility information, violations, enforcement actions, and monitoring results pertaining to Air Quality, as well as other media.

Agency Structure

The Division of Air and Waste Management (DAWM) oversees the handling, transferring and storing of solid and hazardous materials by regulating, monitoring, inspecting, enforcing and responding to emergencies. The Division also implements the state's air monitoring, permitting and compliance programs.

Air Quality Management ("AQM") –The Engineering and Compliance Program was one of six Sections and Branches under the AQM program in DNREC's Division of Air and Waste Management. Most managers and staff in the Engineering and Compliance Program work out of DNREC's New Castle office and a few engineers/scientists and one manager works primarily out of DNREC's Dover office. Staff members in both offices have responsibility for writing permits as well as conducting inspections. AQM officials believe that writing permits and conducting inspections provides their staff with a unique knowledge base and perspective that results in improved compliance.

In addition to the Engineering and Compliance group under the AQM Section, there is also an Air Surveillance group. Among other duties, the Air Surveillance group is responsible for measuring and reporting ambient concentrations of selected air pollutants, conducting special studies to address citizen concerns, conducts engineering reviews of the plans and methods used for all stack tests, reviews plans for the installation and subsequent testing of Continuous Emission Monitoring Systems, and conducts laboratory analyses of fuel oil and asbestos samples.

Hazardous Waste Management - Responsibility for the RCRA Subtitle C, CM&E program lies within the Department's Solid and Hazardous Waste Management Branch. Approximately six FTE's, comprised of seven technical staff, one administrative support specialist and two environmental program managers are devoted in part to hazardous waste CM&E activities. Resources for data management of CM&E data lie within the Solid and Hazardous Waste Management Branch. New technical staff devoted to hazardous waste management activities is trained using a combination of in-house training by more experienced technical staff and management, as well as through course work offered by EPA, the Northeast Environmental Enforcement Project and private contractual offerings. CM&E data are managed in two ways, this being via translation to RCRAInfo from the Department's Delaware Environmental Navigator system and direct data entry into the federal RCRAInfo database. Delaware's site identification information for hazardous waste generators and facilities is uploaded to RCRAInfo from the Department's Environmental Navigator system. CM&E data is directly entered into RCRAInfo, although it is the Department's future intention to collect CM&E data in the Delaware Environmental Navigator system for translation into the federal RCRAInfo database. In addition to electronic data management, the hazardous waste program maintains extensive hard copy files containing detailed CEI reports and checklists, enforcement actions, compliance documentation and compliance confirmation letters.

NPDES/Surface Water Management - On April 1, 1974, EPA delegated the NPDES program to DNREC, on May 4, 1983 and October 23, 1992, EPA approved revisions to this delegation and then entered into the Memorandum of Agreement between the Department of Natural Resources and Environmental Control for the State of Delaware and the Regional Administrator, Region III United States Environmental Protection Agency (the "Delegation Agreement"). The Delegation Agreement did not specify any particular division of DNREC with the responsibility for the implementation of the NPDES program; however, the program has been traditionally housed with the Division of Water Resources ("DWR").

Due to changes to the Federal regulations, certain functions for implementing the NPDES program have been extended to include DNREC's Division of Soil and Water Conservation ("DSWC") and the Delaware Department of Agriculture ("DDA"). DWR has primary responsibility for municipal and industrial "point source" discharges of process wastewater and stormwater, except stormwater related to construction sites. Concentrated animal feeding operations (CAFOs) are regulated jointly by DNREC's DWR and DDA which was memorialized in the Memorandum of Agreement between Department of Natural Resources and Environmental Control and Delaware Department of Agricultural (the CAFO Agreement) on June 23, 2000.

While DNREC maintains delegation for enforcement of NPDES permits issued to CAFOs, DDA has primary enforcement authority of the Delaware's integral part of the NPDES permits issued for CAFOs. Any construction activity occurring in the State that requires a detailed Sediment and Storm Water Plan also requires Federal NPDES general permit coverage. Submittal of a Notice of Intent (NOI) for Stormwater Discharges Associated With Construction Activity together with approval of the detailed Sediment and Storm Water Plan provides sites with permit coverage to be authorized to discharge storm water associated with construction activity.

Roles and responsibilities*:*

The Division of Air and Waste Management's Air Quality Management Section (AQMS) is responsible for Delaware's outdoor air quality. The Section is comprised of three branches: Air Surveillance; Planning; and Engineering and Compliance.

The Air Surveillance Branch monitors both ambient air quality and emissions to the air from specific sources. Ambient, or general outdoor, air quality is monitored at nine locations throughout the state. Source monitoring includes all end-of-pipe air emissions, including motor vehicle exhaust, generators, and dry cleaners in addition to industrial smoke stacks. The Air Surveillance Branch is located at the New Castle Office.

The Planning Branch for AQMS has both a planning and regulatory role. This branch writes all of Delaware's air quality regulations, prepares federally-required State Implementation Plans, prepares Delaware's emission inventory and regulates open burning, mobile source emissions and the removal of asbestos. The Planning Branch is located in the New Castle Office and the Dover Office.

The Engineering and Compliance Branch is responsible for writing permits, inspecting facilities, and taking enforcement actions when permits are violated. When a violation is found during inspection and a notice of violation is issued to the facility, the case is then presented to the Enforcement Panel.

Compliance/Enforcement Program Structure: Within the Engineering and Compliance Branch (ECB), a Branch Program Manager oversees three Engineering Managers. There are nineteen inspectors that work in the ECB. Currently, there are seven vacancies in the Branch. The Branch Program Manager does not believe these vacancies interfere with the branch meeting their Memorandum of Understanding (MOU) commitments. The seven vacant positions are for three Program Managers, one Paralegal, one Management Analyst, one Compliance Specialist, and an Environmental Scientist. Staff in the ECB is located in the New Castle and Dover offices.

Staff members have the responsibility for writing permits as well as conducting inspections. DNREC officials believe that writing permits and conducting inspections provides their staff with a unique knowledge base and perspective that results in improved compliance.

There are various other state and local organizations that are involved with DNREC's enforcement and compliance program, such as: the Delaware Department of Justice/Attorney General's Office (who by statute represent our agency), the Delaware Department of Agriculture (NPDES/CAFOs), and for the NPDES/Stormwater Construction program, various delegated agencies (county and city agencies) as listed in item 5 above.

NPDES/Stormwater Construction - New Castle County Department of Land Use was the only local agency reviewed.

NPDES/Surface Water Discharges Section – DDA/CAFOs – Allah Akbar Farm, Chrissman

Racing Team, and Puglisi Egg Farm of Delaware, LLC were the selected CAFO sites to be reviewed.

Resources:

FTEs

Item	Program/Media	Inspectors	Engineers	Scientists	Attorneys	Managers	Other Support
1.	AQMS	16 (2 vacant)	16 (2 vacant)	2 vacant	1	5	5 (1 vacant)
2.	Hazardous Waste	24 (3 vacant)	5 (1 vacant)	12 (2 vacant)	4	4	14
3.	NPDES/Surface Water	2	5 (1 vacant)	3 (1 vacant)	4	3 (1 vacant)	2
4.	NPDES/Storm Water Construction	1at DNREC 23 at Local Agencies	3 (1 vacant)	1	4	2	2 (1 vacant)

Universe of Inspections

Item	**Program/Media**	**Universe**	**Inspectors**	**Approx. number of Inspections Performed per FTE (on-site)**
1.	AQMS	1500	10 (2 vacant)	43
2.	Hazardous Waste	1300	7 (1 vacant)	20
3.	NPDES/Surface Water	388	2	194
4.	NPDES/Storm Water Construction	4,015	1at DNREC 23 at Local Agencies	167

Staffing/Training

As the current economic climate has affected the State of Delaware similarly to other state and federal agencies, no programs are fully staffed and, according to Delaware's Office of Management and Budget, only select positions within all state agencies will be filled in the immediate future. The following programs provided more specific comments regarding staffing and vacancy issues:

1. **Hazardous Waste Management** - Annually, the state's hazardous waste management program is impacted by vacancies, at times this rate being approximately 40% of staff positions. While some vacancies may be filled, training newly hired technical staff to independently perform CEI's is both time and labor intensive. Thus, filled positions do not necessarily reflect that each technical staff member is prepared to complete a thorough CEI at the most complicated sites in the state. Given that state revenues continue to decline, it is anticipated vacant positions, or those that may become vacant in the future, will remain unfilled.

2. **NPDES/Surface Water Management –** The surface water discharges section is not fully staffed and may be impacted by vacancies in the very near future. Inspectors receive OJT and attend EPA sponsored Inspector Training.

3. **NPDES/Sediment and Stormwater** – It is currently not fully staffed and may be impacted by vacancies in the near future. The state and local agencies have different hiring procedures. However, most of the delegated agencies rely on in-house training from other qualified staff. The state inspector is required to attend the 40 hour OSHA training as the inspector is responsible for inspecting Superfund remediation sites.

Generally, all technical/inspector program positions are defined through the State of Delaware Merit System and applicants have to demonstrate training and experience in order to qualify for the position.

Data

DNREC's integrated enforcement and compliance database, the Delaware Environmental Navigator (or "DEN") is the main database for entry and retrieval of enforcement and compliance information for the regulatory programs.

Additionally, each program has its own reporting system to EPA – PCS for NPDES/Surface Water Management, RCRAInfo for Hazardous Waste, and AFS for AQMS. Additionally, NPDES/Surface Water Management utilizes the WaterScape database to exchange enforcement and compliance information.

The NPDES/Storm Water Construction program does not currently report MDRs to the EPA national data systems.

NPDES/Sediment and Stormwater – DNREC's Sediment and Stormwater Program is delegated locally through eight agencies – (City of Newark, New Castle County Department of Land Use, New Castle Conservation District, City of Wilmington, Town of Middletown, Kent Conservation District, Sussex Conservation District, and DelDOT). The program delegation includes plan review of land development projects, inspection of projects under construction and post-construction maintenance inspection. Region 3 reviewed sediment and storm water files from the New Castle County Department of Land Use as part of this SRF review.

To gain compliance at a site, the delegated agencies may avail themselves to tools within their toolbox such as withholding building permits or other building inspections. However, for any type of enforcement the site would be referred to the Department for the appropriate enforcement action.

Background New Castle County Department of Land Use:

In 1991, the State promulgated regulations in response to legislation, 7 Del. C. Chapter 40, which established minimum program requirements for all Sediment and Storm Water Management programs in the State. The State program places ultimate responsibility for the implementation of the Sediment and Storm Water program with the Department of Natural Resources and Environmental Control (Department), but allows for the Department to delegate program elements to appropriate jurisdictions or Conservation Districts for the following program elements:

1. Plan review of proposed land disturbing activities
2. Inspection of projects under construction (construction review)
3. Post-construction inspection of completed permanent Storm Water management practices (maintenance inspections)
4. Education and training

It is a requirement of the Sediment and Storm Water Law and Regulations that delegation of authority be granted for a time not to exceed three years, at which time delegation renewal is required. In a March 31, 2006 letter to the Department of Land Use General Manager, the Department granted delegation of plan review, construction review and maintenance inspections for another three time period until June 30, 2009.

In a January 7, 2009 letter from General Manager Charles Baker to Secretary Hughes, the New Castle County Department of Land Use (NCCDLU) requested delegation of the three program elements for another three year period. A formal evaluation was conducted and based upon the review; DNREC recommended that NCCDLU be granted delegation of the Plan Approval, Construction Inspection, and Maintenance Inspection program elements for a period of three years, through June 30, 2012.

Staffing/Organization (NCCDLU)
George O. Haggerty, Assistant Land Use Manager
NCC-Department of Land Use
(Manages 76 Full Time Employees (FTEs))

Michael L. Clar, P.E.
Assistant County Engineer
NCC-Department of Land Use
(Manages 9 FTEs)

John Gysling, P.E.
NCC-Department of Land Use
(1/9 of Clar FTEs)

NCCDLU oversees construction from the plan review stage through project completion.

NCCDLU manages inspection of major residential construction, including residential sites (2-3 lots) and multi-phase developments. Commercial and non-residential developments are required to have CCRs. These sites are visited weekly and require weekly inspection reports. Small lots are owned independently. The owners hire CCRs and NCC conducts their own audits and compares any findings with CCR inspection reports.

There are two (2) inspector FTEs (1 is currently serving in Iraq). To support this temporarily vacant position, NCCDLU borrows staff from the building inspectors unit. There are thirteen (13) building inspectors, who at any given time, may serve as Certified Construction Reviewers (CCRs). Of these, three (3) FTEs are reviewers and 2 PTEs serve as reviewers also The other 50% of the Part Time Employees (PTEs') time is spent on building inspections; one (1) public works inspector often spends time in the field with plans and as-builts; due to attrition, there are currently two (2) engineers (one recently deceased). NCCDLU also employs one (1) FTE for responses to the Freedom of Information Act (FOIA).

If a CCRs are performing poorly, have inaccurate or inconsistent reports, then NCCDLU will intervene with discussions on the matter, provide additional training opportunities and document formal notifications. If marked improvement is not recognized, NCCDLU refers the case to DNREC. DNREC has the authority, via the Secretary, to file for removal and revocation of CCR certifications.

CCRs are overseen by Professional Engineers, particularly, the Delaware Association of Professional Engineers (DAPE). PEs concurs on inspection reports prepared by CCRs. Once a PE concurs, they are responsible for the data contained in the repot.

The Department of Special Services (NCCDSS) conducts long term annual maintenance reviews of Best Management Practices (BMPs). Monthly, DNREC meets with NCCDLU and NCCDSS for open discussion and to provide technical direction.

Enforcement (NCCDLU)

While DNREC maintains full overarching enforcement authority, NCCDLU does have enforcement tools at their disposal to quickly achieve compliance, i.e., Stop Work Orders, fines/penalties and required plan re-writes. In the previous 3 years, NCCDLU has not had cause

to refer any case to DNREC for enforcement follow-up.

On July 1, 2009, NCCDLU implemented a fine/penalty structure of $50 for the 1st failed CCR re-inspection; $250 for the 2nd and $500 for the 3rd. This penalty process is still being managed to perfection. NCCDLU believes that better clarity is needed on how to overlay instances of noncompliance with the existing fine/penalty schedule.

After two (2) consecutive, failed CCR inspection reports, it's highly recommended and required that Erosion and Sediment (E& S) plans are re-written.

When suspension of construction activity is requested, the CCR will request a temporary hold. Prior to release of the temporary closure, the CCR walks the site with the contractor/developer to ensure appropriate stabilization has occurred. This usually occurs after

NCCDLU issues violation notices based upon two scenarios: 1) when re-inspection fees are not paid and 2) ongoing noncompliance after the 3rd re-inspection.

Data/Infrastructure (NCCDLU)

CCRs e-mail completed inspection reports to the Hansen Software System (1998). Michael Clar, P.E., stated that this is a very large system with query capabilities. The Hansen system tracks many activities including inspection, re-inspection fees/penalties, plan submittals, plan reviews, and comments.

When plans are approved, a pre-construction meeting is held and an engineering file is developed. NCCDLU prepares comprehensive, monthly engineering reports that identify various types of plan reviews. This same report reflects how these reviews are work-shared amongst the available FTEs within a multi-year timeframe (2003-2010). Also, E & S inspections are tracked within this same timeframe (2003-2010) and specify active and inactive sites, pass/fail evaluations, and drainage complaints.

B. MAJOR STATE PRIORITIES AND ACCOMPLISHMENTS:

Priorities: DNREC has an internal goal to inspect every Title V and Synthetic Minor facility on a yearly basis – more frequently than otherwise required under the Compliance Monitoring Strategy (CMS) submitted to EPA Region 3. Enforcement of DNREC's Air regulations is driven by the violations found during the inspections, as well as incident reports and other submittals received from the regulated community.

Air emissions reductions also were important during fiscal year (FY) 2008 as DNREC implemented rules requiring substantial reductions of Nitrous Oxides (NOx), Sulfur Oxides (SOx), other acid gases and mercury from electric generating units.

Accomplishments: Continual oversight of the Premcor refinery resulted in emissions reductions, penalties, and environmental improvement projects (EIP). Specifically,

- Coke Handling – DNREC continued to collect stipulated penalties for violations of state Total Suspended Particulate (TSP) standards while a new pneumatic coke transport system was constructed. Penalties associated with the initial and continuing violations total approximately $400,000 with a $150,000 EIP for school bus diesel particulate reductions.

- Frozen Earth Storage – A consent decree was signed with the refinery to minimize emissions of propane/propylene from this storage area, empty it, and decommission the installation. A $250,000 penalty and $950,000 EIP to promote energy efficiency projects were collected and over 200 tons per year (TPY) of unpermitted emissions will be eliminated.

- DNREC settled with Motiva Enterprises for a long standing group of violations including Prevention of Significant Deterioration (PSD) for the Fluid Catalytic Cracking Unit (FCCU) Carbon Monoxide (CO) Boiler and coke handling. A $650,000 penalty and $200,000 EIP for school bus diesel particulate reductions were collected.

- DNREC negotiated consent decrees from NRG Energy and Conectiv Energy to settle appeals of Regulation 1146 which include:

- Emissions reductions from the NRG Indian River power plant are going to be the largest in state history.

- Units 1 and 2 will be shut down in 2010 and 2011 respectively resulting in reductions of over 4,500 TPY of NOx and 23,900 TPY of SOx.

- Emissions controls will be added to Units 3 and 4 resulting in further reductions of NOx by over 75% (12,400 to 3,060 TPY), SOx by nearly 85% (41,700 to 6,100 TPY), and mercury by over 90% to less than 25 pounds per year.

- The consent order with Conectiv requires reductions at the Edgemoor facility of NOx by 67% (Units 3 & 4) and 72% (Unit 5) and SOx by 85% (Units 3 & 4).

C. PROCESS FOR SRF REVIEW

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

Review Period: **Review Period – FY2008**

Key Dates: Kick-off letter to State Secretary – July 31, 2009
Kick-off Meeting with DNREC – August 26, 2009

Key Dates Air:

1) Data pulled for preliminary data analysis (PDA) – May 5, 2009
2) PDA sent to DNREC (electronically) – May 12, 2009
3) Files to be reviewed and file selection methodology sent to DNREC (electronically) – May 19,2009
4) EPA met with DNREC to discuss preliminary findings from PDA and file selection – May 28, 2009

5) File review conducted at DNREC offices – June 8 – 10, 2009
6) EPA met with DNREC to discuss preliminary findings from file review – June 30, 2009
7) DNREC provided EPA its response to PDA (electronically) – August 4, 2009
8) EPA met with DNREC to present initial draft report for them to review – Nov. 17, 2009
9) DNREC provided comments to initial draft report - **TBD**

- **Lead Air contacts for the SRF:**

  - Region III – Air Protection Division

Key Dates (Water Portion Only):

1) Data Metrics forwarded to DNREC
2) SRF Kick-off letter to: **July 31, 2009**
3) PDA opening discussion: **December 10, 2009**
4) EPA/DNREC kick-off conference: **August 26, 2009**
5) Transmittal of File Selection: **October 19, 2009 (SWD)**
   November 23, 2009 (WRD)
6) SRF Review conducted: **October 21, 2009, December 10, 2009,**
   February 4, 2010
7) Statement of Initial Findings provided to DNREC:
8) DNREC response to Initial Findings provided to EPA:

Communication with the State:

In spite of dwindling resources, coordination with DNREC management and staff in preparation for Round 2 was very well received. The appropriate DNREC staff availed themselves and participated in all scheduled meetings and conferences. The EPA review teams were able to meet the goals and objectives of the State Review Framework.
Close-out conferences were held at DNREC offices and included newly appointed Program Manager 2, Surface Water Discharges Section and an Environmental Scientist, Surface Water Discharges Section.

DNREC SRF Contacts:

Paul Foster, Program Manager Compliance and Enforcement Air
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Lisa Trakis, NPDES Enforcement Branch
Carol Amend, Associate Director, Office of Land Enforcement

III. Status of Outstanding Recommendations from Previous Reviews

During the first SRF review of Delaware's compliance and enforcement programs, Region 3 and DNREC identified a number of actions 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.

Status	Due Date	Media	Title	Finding	Element
Working	12/29/2006	CWA	Documentation of inspection findings	DNREC needs SOPs in the NPDES program for writing inspection reports	Violations ID'ed Appropriately
Working	9/29/2006	CWA	Timely identification of violations	DNREC does not have procedures for reviewing inspection reports for the NPDES program	Violations ID'ed Timely
Working	9/30/2006	CWA	Data entry	DNREC need to enter SEV into PCS	SNC Accuracy
Working	9/29/2006	CWA	Return to compliance	Include a compliance schedule with enforcement actions	Return to Compliance
Working	9/29/2006	CWA	Timely and appropriate actions	The review team found a variety of enforcement response including one formal enforcement response, verbal warnings and inspections as enforcement responses.	Timely & Appropriate Actions
Working	9/29/2006	CWA	Penalty Calculation	The only formal enforcement action taken in the NPDES program did not have a documented penalty calculation in the file.	Penalty Calculations
Working	9/29/2006	CWA	Penalty calculaltions	Respondent in a formal enforcement action requested a hearing, the hearing was not scheduled nor was the matter settled.	Penalty Calculations

The initial review identified significant deficiencies in DNREC's NPDES program. EPA Region 3's Water Protection Division and DNREC entered into a Compliance Monitoring and Enforcement Improvement Plan (Management Agreement) which addresses the findings listed above. The Management Agreement set forth schedules for documentation of Annual Compliance Monitoring Strategies (CMS) and submission of a Compliance and Enforcement Response Guide (CERG). The second review found some of the same issues still occurring in 2008. However, DNREC has experienced a change in management including the first line supervisor for the NPDES enforcement program, Water Division Director and new State

Secretary since the most recent review. The change in management has led to a change in enforcement practices since 2008. The changes in enforcement practices are discussed below along with the actions for which DNREC needed to correct as a result of the first evaluation and were identified in the second round with recommendation for improvement.

Promptly enter accurate and complete DMR data. The second SRF review found that DNREC does enter informal enforcement actions into the state database, however, actions are not uploaded to PCS. Additionally, DNREC is not entering Single Event Violations in the national database. DNREC did not take any formal enforcement actions during the time period of this review. Since the review of 2008 data, DNREC has begun the following activities with regard to data entry and accuracy:

- Inspections reports are posted to Waterscape and include a checklist, narrative and a deficiency notice if applicable.

- To verify the identification of single event violations (SEVs), Region 3 is reviewing the universe of major inspection reports uploaded to Waterscape for FY'2010.

- In FY'2010, DNREC began entering SEVs into PCS

Timely and Appropriate Enforcement The second SRF review found DNREC's NPDES program continuing the practice of conducting repeat inspections to encourage resolution of violations including SNC. The second review also found that DNREC's NPDES program did not initiate independent, escalated enforcement since inception of the Management Agreement, in June 2006. DNREC has or is in the process of addressing all SNC violations, three identified since FY-2008. DNREC also issued two enforcement cases with significant penalties.

Recommendation to address Timely and Appropriate Enforcement As part of the Management Agreement, DNREC agreed to develop a Compliance and Enforcement Response Guide (CERG). DNREC submitted a draft CERG in December, 2010 which does not meet all of the criteria of a timely and appropriate enforcement policy. The Region continues to work with DNREC to develop their Compliance and Enforcement Response Guide.

In addition to developing the CERG discussed above to address the findings, the NPDES program will closely review inspection reports generated by DNREC and facilities discussed during the Quarterly Enforcement Meeting (QEM) calls to determine whether DNREC is taking appropriate action. If Delaware fails to take timely and appropriate action, WPD will consider taking independent enforcement action, including over filing an existing state action in order to clearly establish expectations.

The NPDES program and DNREC negotiated the 2011 NPDES work plans for enhanced federal/state cooperation in water matters. As part of that agreement, DNREC has committed in their SRF work plan to a timely implementation of the recommendations identified through the SRF process.

Clean Air Act Program Findings

[CAA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element + Finding Number	Finding	All metrics under element 1 were found to be complete and conform to the minimum data requirements (MDRs).
1.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	The number of operating majors (1a1) and Title V majors (1a2) were found to be identical. In addition, Delaware was found to be at the national goal and/or well above the national average in entering Maximum Available Control Technology (MACT), National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) subparts on facilities with an full compliance evaluation (FCE) conducted after 10/01/05 (1c4, 1c5, and 1c6). Also, the three data metrics related to High Priority Violator (HPV) Day Zeros (i.e, 1h1, 1h2, 1h3) were found to be at the national goal and/or well above the national average.
	Metric(s) and Quantitative Value	1a1 (AFS Operating Majors (Current)): 65 1a2 (AFS Operating Majors with Air Program Code = V (Title V) (Current)): 65 1c4 (Clean Air Act (CAA) Program Designation: % NSPS facilities with FCEs conducted after 10/1/05): National Goal – 100%; National Average – 77.8%; Delaware – 100% 1c5 (CAA Program Designation: % NESHAP facilities with FCEs conducted after 10/1/05): National Goal – 100%; National Average – 34.9%; Delaware – 80.0% 1c6 (CAA Program Designation: % MACT facilities with FCEs conducted after 10/1/05): National Goal – 100%; National Average – 91.7%; Delaware – 98.8% 1h1 (HPV Day Zero (DZ) Pathway date: % DZs with discovery action/date: National Goal – 100%; National Average – 50.81%; Delaware – 100% 1h2 (HPV Day Zero (DZ) Pathway date: % DZs with violating pollutant: National Goal – 100%; National Average –68.8%; Delaware – 88.9% 1h3 (HPV Day Zero (DZ) Pathway date: % DZs with HPV Violation Type Code(s) National Goal – 100%; National Average – 66.5%; Delaware – 100%
	Action(s)	None
	State's Response	
	Region's Response	

[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.).		
Element + Finding Number	Finding	Twelve (12) of twenty one (21) files reviewed contained data inconsistencies between AFS and the files.
2.1	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ❒ Area for State Attention X Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Twelve (12) of twenty one (21) files contained discrepancies between the minimum date requirement (MDR) data in AFS and the information in the file. There was no one specific MDR that kept showing up as an inconsistency.
	Metric(s) and Quantitative Value	2c (MDR data accurately reflected in the national data system (AFS)): 57%
	Action(s)	By 09/30/10, Delaware should develop and implement a standard operating procedure (SOP) to address the discrepancy of AFS data and information in the files. Included in the SOP should be a procedure to transfer files from New Castle to Dover, as appropriate, if Dover is to remain the location for the official file of record.
	State's Response	Completed

[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.).		
Element + Finding Number	Finding	Delaware is doing a thorough job in entering stack test results into AFS.
2.2	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Delaware is at the national goal of zero stack tests without pass/fail results.
	Metric(s) and Quantitative Value	2b1 (Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)): National Goal – 0% ; National Average – 1.1%; Delaware Result - 0%;
	Action(s)	None
	State's Response	

[CAA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
Element + Finding Number	Finding	Delaware is experiencing problems entering MDRs into AFS in a timely manner.
3.1	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ❒ Area for State Attention X Area for State Improvement (Recommendation Required)
	Explanation of the Finding	The majority of Delaware's MDRs are not being entered into AFS in a timely manner. In particular, the reporting of owner / operator-conducted stack tests contributes the most to the low % of activities reported timely. According to the date in metric3b1, none of the 180 actions pertaining to stack tests were entered into AFS in a timely manner. The Delaware lost their AFS data manager in early FY08. The two people that replaced the AFS data manager were completely unfamiliar with AFS and assumed all data responsibilities. There is a tremendous learning curve associated with AFS. The FY09 data shows an improvement as data metric 3b1 for DNREC is at 61.3% for FY09 compared to 37.9% for FY08.
	Metric(s) and Quantitative Value	3a (Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average – 33.7%; Delaware Result – 30.0%; 3b1 (Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average – 59.5%; DNREC Result – 37.9%; 3b2 (Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)): National Goal - 100%; National Average – 70.8%; DNREC Result – 71.0%
	Action(s)	By 09/30/10, Delaware should develop and implement a standard operating procedure (SOP) to ensure that MDRs are entered into AFS in a timely manner. Included in the SOP should be the timely entry of stack tests , the timely entering of compliance determinations (see Element Finding No. 7.1) and the timely reporting of HPVs to AFS (see Element Finding No. 8.1). In addition, EPA recommends that Delaware include in the SOP any necessary enhanced management oversight, at the First Line Supervisor or Program Manager level, to insure that MDRs are entered timely. Consideration should also be given to incorporating a similar recommendation for

		data quality into staff annual performance standards.
	State's Response	

[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.		
Element + Finding Number	Finding	All commitments in the Oct. 2005 Memorandum of Understanding (MOU) were completed by Delaware in the review year (i.e., FY2008).
4.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Delaware completed all of their commitments in its FY2008 CMS plan and all commitments specified in the Oct. 2005 MOU.
	Metric(s) and Quantitative Value	4a (Planned evaluations (FCEs, partial compliance evaluations (PCEs), investigations) completed for the review year pursuant to a negotiated CMS plan): 100% 4b (Planned commitments completed): 100%
	Action(s)	None
	State's Response	

[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).		
Element + Finding Number	Finding	Delaware met or exceeded most planned inspections/compliance evaluations
5.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Delaware met or exceeded all national goals and/or was above the national average for all data metrics within this element.
	Metric(s) and Quantitative Value	5a1 (CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)): National Goal - 100%; National Average – 90.7%; DNREC Result – 100% 5b1 (CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)): National Goal - 40%; National Average – 69.2%; DNREC Result – 96.0% 5e (Number of Sources with Unknown Compliance Status (Current): National Goal - NA; National Average – NA; DNREC Result – 1 5g (Review of Self-Certifications Completed (1 FY)): National Goal - 100%; National Average – 93.2%; DNREC Result – 98.6%
	Action(s)	None
	State's Response	
[CAA] Element 6 – Quality of I nspection 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.		
Element + Finding Number	Finding	Two (2) of nineteen (19) compliance monitoring reports (CMRs) reviewed included all elements required under § IX of the CMS.
6.1	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements x Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Seventeen (17) of the nineteen (19) CMRs reviewed did not include all of the required elements under § IX of the CMS. In particular, the compliance and enforcement history was missing from 10 of the CMRs. In addition, there appeared to be two different styles of CMRs for inspectors in the New Castle office compared to inspectors in the Dover office. According to DNREC's Program Manager for Air Compliance & Enforcement, a new CMR template was developed in the spring of 2009 to be used by all inspectors. This template was developed as a result of a Round 1 recommendation and includes all of the elements required under § IX of the CMS. The review team reviewed one CMR that was recently completed using the new template and found the CMR to include all elements required under § IX of the CMS.

	Metric(s) and Quantitative Value	6c (% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility): 11%
	Action(s)	EPA will monitor implementation of new CMR template during regular T&A calls.
	State's Response	

[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.		
Element + Finding Number	Finding	Nineteen (19) of the nineteen (19) FCEs reviewed had documentation in the files to show that they contained all of the elements of the FCE, per the CMS.
6.2	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All 19 FCEs reviewed contained sufficient information in the CMR and/or the file to make a compliance determination. In addition all of the FCEs were completed in a timely manner.
	Metric(s) and Quantitative Value	6a # of files reviewed with FCEs: 19 6b (% of FCEs that meet the definition of an FCE per the CMS policy): 100%
	Action(s)	None
	State's Response	

[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).		
Element + Finding Number	Finding	Delaware's compliance determinations are accurate, but not always promptly reported in AFS.
7.1	Is this finding a(n) (select one):	❒ Good Practice ❒Meets SRF Program Requirements ❒ Area for State Attention x Area for State Improvement (Recommendation Required)
	Explanation of the Finding	While the majority of the violations reviewed were accurately reported in AFS, they were not always reported to AFS in a timely manner. The timeliness issue was discussed in Element 3, and corrective actions developed under Element 3 (i.e., finding 3.1) will include corrective actions for timely reporting of violations to AFS under Element 7.
	Metric(s) and Quantitative Value	7a (Accuracy of compliance determinations): 90% 7b (Timely reporting of violations of non-HPVs): 53% 7c1 (Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)): National Goal - > ½ Nat'l average ; National Average – 21%; Delaware Result – 41.6% 7c2 (Percent facilities that have had a failed stack test and have noncompliance status (1 FY)): National Goal - > ½ Nat'l average; National Average – 43.1%; Delaware Result – 100%
	Action(s)	See finding 3.1
	State's Response	

[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.		
Element + Finding Number	Finding	Delaware does a thorough job in making HPV determinations but does not always report HPVs to AFS in a timely manner.
8.1	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ❒ Area for State Attention X Area for State Improvement (Recommendation Required)
	Explanation of the Finding	The Preliminary Data Analysis (PDA) (i.e., Metrics 8a, 8b, 8c, and 8d) had indicated a potential problem in identifying HPVs and applying the HPV Policy to violations discovered by DNREC. Supplemental files were reviewed that enabled the Review Team to conclude that all violations were appropriately classified. Because 100% of the violations reviewed had the correct HPV determinations (Metric 8f), EPA Region 3 confirmed that DNREC does not have a problem in identifying HPVs and applying the HPV Policy to violations discovered by DNREC. Finally, note that data metric 3a indicates that Delaware does not always enter HPVs into AFS in a timely manner. The timeliness issue was discussed in Element 3, and corrective actions developed under Element 3 (i.e., finding 3.1) will include corrective actions for entering HPVs into AFS in a timely manner under Element 8.
	Metric(s) and Quantitative Value	3a (Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY): National Goal - 100%; National Average – 33.7%; Delaware Result – 30.0%; 8a (High Priority Violation Discovery Rate - Per Major Source (1 FY)): National Goal - > ½ Nat'l average; National Average – 8.0%; Delaware Result – 6.2% 8b (High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)): National Goal - > ½ Nat'l average; National Average – 0.7%; Delaware Result – 0.0% 8c (Percent Formal Actions With Prior HPV - Majors (1 FY)): National Goal - > ½ Nat'l average; National Average – 74.3%; Delaware Result – 42.9% 8d (Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)): National Goal - < ½ Nat'l average; National Average – 40.4%; Delaware Result – 60.0% 8e (Percent Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)): National Goal - > ½ Nat'l average; National Average – 44.5%; Delaware Result – 60.0% 8f (% of violations in files reviewed that were accurately determined to be HPV): 100%
	Action(s)	See finding 3.1
	State's Response	

[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.		
Element + Finding Number	Finding	Delaware includes corrective actions in formal enforcement responses where appropriate.
9.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All formal responses reviewed contained the documentation that required the facilities to return to compliance.
	Metric(s) and Quantitative Value	9a (# of formal enforcement responses reviewed): 7 9b (Formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame (HPVs and non HPVs): 100%
	Action(s)	None
	State's Response	None
[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.		
Element + Finding Number	Finding	Delaware takes appropriate enforcement actions in accordance with the HPV policy.
10.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All HPV related enforcement actions reviewed indicated that Delaware takes appropriate enforcement actions for HPVs.
	Metric(s) and Quantitative Value	10c (Enforcement responses for HPVs that are appropriate to the violations): 100%
	Action(s)	None
	State's Response	None

[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.		
Element + Finding Number	Finding	Delaware lags behind the national average in taking timely and appropriate enforcement actions in accordance with the HPV policy.
10.2	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ❒ Area for State Attention x Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Delaware appears to have a potential problem in addressing HPVs in a timely manner as supported by metrics 10a (data) and 10b (file). However, the two files reviewed indicate that DNREC does take appropriate enforcement actions for HPVs.
	Metric(s) and Quantitative Value	10a (Percent HPVs not meeting timeliness goals (2FY)): National Goal – None; National Average – 37%; Delaware Result – 68.4% 10b (Enforcement responses at HPVs (formal & informal) taken in a timely manner as documented in the enforcement files reviewed): 0%
	Action(s)	DNREC should adhere to the current MOU between DNREC and EPA Region 3 for the Title V Operating Permits and Air Compliance programs dated 10/15/07. This MOU, among others, discusses adherence to EPA's T&A Policy. In addition, DNREC should adhere to DNREC's own Compliance & Enforcement Response Guide dated 9/19/02, which references EPA's T&A Policy. Additionally, DNREC is asked to identify the causes of unaddressed HPVs > 270 days and propose a plan of action to EPA to timely address all future HPVs.
	State's Response	

[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.		
Element + Finding Number	Finding	Delaware includes both gravity and economic benefit calculations in initial penalty calculations.
11.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All files containing penalty calculations included calculations for both gravity and economic benefit.
	Metric(s) and Quantitative Value	11a (% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit): 100%
	Action(s)	None
	State's Response	None

[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.		
Element + Finding Number	Finding	Delaware's files contain adequate documentation for the rationale between the initial and final assessed penalties and the collection of penalties.
12.1	Is this finding a(n) (select one):	❒ Good Practice x Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All files reviewed contained adequate documentation for the rational between the initial and final assessed penalties. In addition, all of the files contained sufficient information documenting the collection of penalties.
	Metric(s) and Quantitative Value	12c- (% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty): 100% 12d (% of files that document collection of penalty): 100%
	Action(s)	None
	State's Response	None

RCRA Findings

[RCRA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
Element + Finding Number	Finding 1.1	The State met this element. We found the minimum data requirements to be complete.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	While the Preliminary Data Analysis identified some concerns with SNC data entry rates (which are less than half the national average), we found data entry to be complete.
	Metric(s) and Quantitative Value	1e1 (number of new SNCs detected in last FY) State metric 1 1e2 (number of sites in SNC status in last FY) State metric 1
	Action(s)	
	State's Response	

[RCRA] Element 2 – Data Accuracy		
Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).		
Element + Finding Number	Finding 2.1	All records, with the exception of "compliance assistance visits" were entered accurately into the system.
	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ■ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	During our file review, we identified one facility where the State had made two compliance assistance visits to the facility; this activities was not entered into RCRAInfo. All other data was accurately entered.
	Metric(s) and Quantitative Value	2c (percent of files reviewed where mandatory data are accurately reflected in the national data system) State metric 96%
	Action(s)	It is not clear that "compliance assistance visits" are a required element to be entered into RCRAInfo. However, we feel that it is a good practice to capture all site visits in the data system.
	State's Response	

[RCRA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
Element + Finding Number	Finding	The State met this element. All records appear to be entered in a timely fashion.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	We found nothing to suggest anything but timely entry of data.
	Metric(s) and Quantitative Value	3a (percent of SNCs entered into RCRAInfo more than 60 days after the determination) 0%
	Action(s)	
	State's Response	

[RCRA] Element 4 - Completion of Commitments.		
Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.		
Element + Finding Number	Finding	The State met this element. Inspection commitments were met.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All inspection commitments were met. See Element 8 for additional discussion on SNC identification and Element 10 for additional discussion on timely and appropriate enforcement accomplishments. Participated in inspector workshop. Compliance monitoring inspections all entered into database as required by work plan.
	Metric(s) and Quantitative Value	4a (planned inspections completed) 4b (planned commitments completed)
	Action(s)	
	State's Response	

[RCRA] 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).		
Element + Finding Number	Finding	Delaware effectively met the national program goal for inspection coverage.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Preliminary data analysis suggested that the state fell somewhat short of the national goal for five-year LQG coverage, but significantly exceeded the national average. (Together, the data metric showed that the state and EPA combined to inspect 46 of 49 LQGs.) However, further investigation shows that five-year LQG coverage was adequate. Three facilities included in the RCRAInfo LQG universe were not inspected during the five-year period. One of these facilities shut down and has not generated hazardous waste since 2005. The second of these facilities was listed twice on RCRAInfo, once with an invalid ID number, and was an SQG during the five-year period (prior to 2007). The third of these facilities was issued a provisional ID number for a one-time shipment of hazardous waste (contaminated soils generated as a result of remediation); this facility is not a LQG. We therefore conclude that the state and EPA combined for 100 percent coverage of the LQG universe during the five-year period.
	Metric(s) and Quantitative Value	5a (inspection coverage for operating TSDFs for two years) 100% 5b (inspection coverage for LQGs for one year) 26% State only; 33% Combined 5c (inspection coverage for LQGs for five years) 80% State only; 94% Combined
	Action(s)	
	State's Response	

[RCRA] 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.		
Element + Finding Number	Finding	State's inspections are of high quality and reports are prepared in a timely manner.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	We found the inspection reports to be of very high quality, containing narrative, completed checklists, and photos as appropriate. Reports were completed an average of 14 days after the field work was performed, and none took longer than 50 days. The reviewers only found one instance where there was not sufficient documentation to determine compliance at the facility (a facility's management of pharmaceutical waste was not reviewed, which this could impact the facility's generator status, possibly making them subject to more stringent LQG requirements).
	Metric(s) and Quantitative Value	6b (inspection reports that are complete and provide sufficient documentation to determine compliance at the facility) 97% 6c (inspection reports completed with determined time frame) 100%
	Action(s)	
	State's Response	

[RCRA] Element 7 - Identification of Alleged Violations.		
Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information).		
Element + Finding Number	Finding	The State met this element. Compliance determinations are made accurately and promptly reported into the national database.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Based on the information available, all compliance determinations appear accurate. See Element 6 for more information on one minor issue of completeness of documentation.
	Metric(s) and Quantitative Value	7a (inspection reports reviewed that led to accurate compliance determinations) 100% 7b (violation determinations that are reported timely to the national database) 100%
	Action(s)	
	State's Response	

[RCRA] Element 8 - Identification of SNC and HPV		
Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.		
Element + Finding Number	Finding	The State generally met this element; although the fact of some cases make it difficult to make a definitive statement.
	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ■ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	- The State's SNC identification rate for FY08 was 1.3%, which is less than half the national average of 3.5%. - There were three facilities where we believe a SNC designation *may* have been appropriate, but we feel that these are a close call as to whether the violations should have been designated as SV or SNC. The State designated these three facilities as in SV status, but this is not necessarily the designation EPA would have made had we performed/led the inspection.
	Metric(s) and Quantitative Value	8a (SNC identification rate) 1.3% 8d (violations that were accurately determined to be SNC) 88% to 100%
	Action(s)	
	State's Response	

[RCRA] Element 9 - Enforcement Actions Promote Return to Compliance		
Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame.		
Element + Finding Number	Finding	The State met this element. State enforcement actions include corrective actions as needed to return facilities to compliance.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	All violations which were not corrected at the time of inspection were addressed by injunctive relief requirements as part of the State's enforcement action. Compliance with all injunctive requirements was documented in the State's files.
	Metric(s) and Quantitative Value	9b (enforcement responses that have returned or will return a SNC facility to compliance) 100% 9c (enforcement responses that have returned or will return a SV facility to compliance) 100%
	Action(s)	
	State's Response	

[RCRA] 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.		
Element + Finding Number	Finding	Timeliness of formal enforcement actions is a concern. There were possibly as many as three responses which were not appropriate for the violations identified.
	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ❒ Area for State Attention ■ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	- All informal actions were taken in a timely fashion. - There were no formal enforcement actions taken in FY2008. The reviewers pulled two files from FY2009 in order to evaluate for this element. The two formal actions taken by the State did not meet the RCRA timeliness criteria. One of these cases was a multi-media action (addressing RCRA and CAA violations), which probably contributed to the length of time it took to issue the enforcement action. - The reviewers agreed with the State's enforcement response in 22 instances - In three instances, the reviewers feel that considerable judgment is required to determine the appropriate enforcement response, so believe that the State's approach *may* have been appropriate, although it's not necessarily the approach EPA would have taken.
	Metric(s) and Quantitative Value	10c (enforcement responses that are taken in a timely manner) 93% 10d (enforcement responses that are appropriate to the violations) 88% to 100%
	Action(s)	DNREC should evaluate its process for justification of formal enforcement actions and referral to Delaware's DOJ to determine inefficiencies in its process and better fulfill the timely and appropriate criteria for formal actions.
	State's Response	

[RCRA] Element 11 - Penalty Calculation Method		
Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy.		
Element + Finding Number	Finding	The State met this element.
	Is this finding a(n) (select one):	❒ Good Practice ■ Meets SRF Program Requirements ❒ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	Both files (with formal enforcement actions) included penalty calculations which consider gravity and economic benefit.
	Metric(s) and Quantitative Value	11a (penalty calculations that consider and include gravity and economic benefit) 100%
	Action(s)	
	State's Response	

[RCRA] Element 12 - Final Penalty Assessment and Collection		
Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.		
Element + Finding Number	Finding	Documentation in the file is complete.
	Is this finding a(n) (select one):	❒ Good Practice ❒ Meets SRF Program Requirements ■ Area for State Attention ❒ Area for State Improvement (Recommendation Required)
	Explanation of the Finding	There were no formal enforcement actions taken in FY2008. The reviewers pulled two files from FY2009 in order to evaluate for this element. In both cases (with formal enforcement actions), the State's enforcement panel elected to assess a penalty based on a single day of RCRA violation, at the administrative cap ($10,000), plus 15% to cover the Department's administrative costs. In one instance, this was 36% of the penalty calculated using the penalty matrix, in the other, this was 10% of the penalty calculated using the penalty matrix.
	Metric(s) and Quantitative Value	12a (formal enforcement responses that document the difference and rationale between the initial and final assessed penalty) 100% 12b (enforcement files that document collection of penalty) 100%
	Action(s)	After calculation of penalties using the State's penalty matrix, consideration is given to a number of relevant factors, including ability to pay and litigation risk. We recommend that the State enhance their penalty rationale documentation to demonstrate how these factors impact reductions from the penalty matrix calculations. We understand the difficulties presented by trying to obtain evidence for multiple days of violation when the inspection report only provides documentation of one day of violation. However, we recommend the State rethink their "single day" approach to assessment of penalties, which would provide for penalties closer to those calculated using the State's RCRA penalty matrix.
	State's Response	

NPDES Findings (DNREC)

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
1-1	Finding	DNREC did not enter enforcement actions into the national base, PCS during FY 2008. DNREC does enter enforcement actions into their State data Environmental Navigator, but failed to upload this data into the national data base.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	DNREC is required to assure all enforcement actions are entered into the national data base, PCS and in accordance with the 1985 PCS Policy Statement.
	Recommendation	DNREC should enter formal and informal enforcement actions into PCS, including any milestones and penalties collected. EPA will continue to discuss data quality issues with DNREC during quarterly enforcement meetings (QEM) and will report on completion of this recommendation through the 106 workplan reporting process.
	Metric(s) and Quantitative Value	1e1= 0; 1e2=0; 1e3=0; 1e4=0; 1F2=0;1F4=0
	State Response	
	Action(s)	EPA found DNREC was not entering enforcement actions into PCS during Round 1.

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
1-2	Finding	DNREC is not entering Single Event Violations (SEVs) in the national database.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	In accordance with the 1985 PCS Policy statement all enforcement actions, inspections and single event violations are required to be entered into the national data base. DNREC is responsible for documenting whether a single event violation was identified through self-reporting or inspection activity. DNREC does track these data requirements in their state database, Environmental Navigator. However, they failed to upload this data to PCS.
	Recommendation	DNREC shall enter single event violations, inspections, formal and informal enforcement actions including any milestones and penalties collected into PCS. EPA will continue to discuss data quality issues with DNREC during the quarterly enforcement meeting and will report on completion of this recommendation through the 106 work plan reporting process.
	Metric(s) and Quantitative Value	7a1 SEVs majors 0/0.
	State Response	Beginning with FY2010 data, DNREC began entering SEVs into the national data base.
	Action(s	EPA found DNREC was not entering SEVs into the national data base during the round 1 SRF review.

[CWA] Element 1 – Data Completeness		
Degree to which the Minimum Data Requirements are complete.		
1-3	Finding	One (1) inspection report was not on record in the national database.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirements ☐ Area of Concern ☐ Recommendation for Improvement
	Explanation.	This matter was discussed with DNREC management. The inspection report was entered into Environmental Navigator and uploaded into PCS.
	Recommendation	No further action required.
	Metric(s) and Quantitative Value	5a=14/21 67%; 5b1 17/34 50%; 5b2 0/0; 5c0/9
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[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	Finding	Review of the WENDB data fields in PCS appear to be accurate.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation.	16 of the 17 surface water discharge files reviewed had accurate data in PCS, the national database.
	Recommendation	
	Metric(s) and Quantitative Value	2b; 94%
	State Response	
	Action(s)	

[CWA] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
3	Finding	DNREC is not entering single event violations or enforcement actions into the national database.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	SEVs are required to be entered into PCS for major permittees.
	Recommendation	Beginning FY'2011, DNREC should upload into the national database all enforcement actions within 10 days of the final action date and single event violations within 45 days of the violation. EPA will continue to discuss data quality issues with DNREC during quarterly enforcement meetings and will report on completion of the recommendation through the 106 work plan reporting process.
	Metric(s) and Quantitative Value	
	State Response	DNREC has begun to enter FY'10 SEVs into PCS.
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	EPA found DNREC was had not entered SEVs into PCS during Round 1. During the Round 2 SRF, EPA noted the same finding.

[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	Finding	DNREC did not complete the following commitments found in the 2006 Management Agreement with EPA: take timely and appropriate enforcement actions in response to violations identified in FY2008, did not enter required data into PCS, and has not completed the Compliance and Enforcement Response Guide agreed to in the Management Agreement.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	DNREC entered into a 1983 Memorandum of Agreement (MOA) which provides that DNREC shall maintain a robust enforcement program to assess compliance and initiate timely and appropriate enforcement. DNREC also entered into subsequent MOA with EPA in 2006 to address problems found in SRF round 1. DNREC agreed to engage in timely and appropriate enforcement activity, enter all required data into PCS and to develop and implement a Compliance and Enforcement Guide. Since FY2008, three SNC violations have been identified. DNREC has or is in the process of addressing all SNC violations. DNREC also issued two enforcement cases with significant penalties. In December, 2010, DNREC submitted a final draft of the CERG. DNREC is developing new language and incorporating comments provided by the Region.
	Recommendation	In keeping with the MOA, DNREC shall engage in timely and appropriate enforcement activity. DNREC shall also enter all required data into ICIS and finalize the CERG by December 31, 2011. EPA will continue to discuss compliance and enforcement issues with DNREC during quarterly enforcement meetings the 106 workplan negotiation and reporting process and finalization of the CERG.
	Metric(s) and Quantitative Value	4b; N/A
	State Response	DNREC has agreed to a joint planning document that will further the goals of several, programmatic focus areas. As a result, EPA and DNREC have documented a Permitting and Enforcement Work Plan scheduled for implementation during FY2011. DNREC submitted a draft CERG received December 2010. Document status is pending EPA program review and comment.

	Action(s) (include any uncompleted actions from Round 1 that address this issue)	In 2006, DNREC agreed to correct the deficiencies identified as a result of the Round 1SRF and entered into a Management Agreement with EPA. DNREC has not fulfilled all of the terms of the 2006 Management Agreement, specifically, finalization of a draft CERG.

[CWA] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).		
5	Finding	In accordance with its compliance monitoring strategy, DNREC completed its universe of planned inspections for FY'2008.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ☐ Area of Concern ❒ Recommendation for Improvement
	Explanation.	DNREC's approved Compliance Monitoring Strategy (CMS) DNREC commits to conduct inspections at 100% at major facilities and 50% of the non-major universe. The data pulled for FY2008 includes the number of inspections at major facilities DNREC completed during the Federal Fiscal Year 2008. However, DNREC's 2008 inspection year is June 2007 to July 2008. A review of the data for June 2007 to July 2008 indicates DNREC met their inspection commitments for major and non-major facilities. According to the State database, DRNEC inspected 48 of their 281 non-major general permits.
	Recommendation	No further action required.
	Metric(s) and Quantitative Value	5a; 14/21 33%; 5b1; 17/34 50%
	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	Finding	Inspection reports reviewed contain ample information to reach an accurate compliance determination. All inspection reports were timely and included very descriptive observations.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒Recommendation for Improvement
	Explanation.	One inspection report was not finalized.
	Recommendation	No further action required.
	Metric(s) and Quantitative Value	6d; 94%
	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.		
6-2	Finding	One (1) facility inspection report did not document a compliance status and one (1) inspection report was incomplete, due to a partial inspection.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirement ☑ Area of Concern ❒ Recommendation for Improvement
	Explanation.	The two instances appear to be anomalies. To ensure completion of compliance monitoring reports, management should provide concurrence on all inspection reports.
	Recommendation	No further action required.
	Metric(s) and Quantitative Value	6c; 82%
	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.		
6-3	Finding	In accordance with criteria provided at Appendix A of the CWA Inspection Report Evaluation Guide, none of the inspection reports reviewed were complete. Each of the inspection reports reviewed were missing one of the following types of information: missing photographs, references to permit requirements and/or regulatory citations, narrative description of the field activity and the regulated area(s) inspected, including facility descriptions.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirement ☑ Area of Concern ❒ Recommendation for Improvement
	Explanation.	While the Appendix A criteria is strict in its requirement for documentation, the review team observed that in three cases the inspection reports did not provide enough documentation of the regulated activity to enable the reviewer to make a compliance determination. The inspection reports were not complete when evaluated through the Appendix A criteria but did generally provide enough information to make a compliance determination. Issues were minor and inspection report quality will be discussed with DNREC during the quarterly enforcement meetings. Where appropriate, DNREC shall ensure inspection reports completely document the inspection to support compliance determinations.
	Recommendation	
	Metric(s) and Quantitative Value	6b, 0%: 6c; 82%
	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	Finding	Based upon the review, the compliance determinations were present in almost all inspection reports. DNREC was not entering SEV data in the national database.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	Review team found one inspection report that did not comment on the compliance status, however, DNREC was not entering SEVs into the national database.
	Recommendation	DNREC should enter any SEVs into the national database that are identified during field inspections. EPA will continue to discuss compliance and enforcement issues with DNREC during quarterly enforcement conferences. Biannual reporting will be completed as part of the 106 grant work plan process.
	Metric(s) and Quantitative Value	7e; 94%
	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	Finding	The review team found that DNREC accurately identified seven SEVs, however, DNREC did not enter the identified SEVs into the national data base during the year of the SRF review.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	SEVs are required to be entered into the national database, for major permittees. DNREC is responsible for documenting whether an SEV was identified via self-reporting or inspection activity. . DNREC enters its SEVs into the state system, "Environmental Navigator." DNREC began entering SEVs into the national database in FY2010. Region 3's NPEDES enforcement program confirmed this finding. A review of the inspection reports showed two instances of incomplete information which appear to be anomalies. One report had an incomplete compliance evaluation and one was report was not signed. Based upon this finding the review team could not firmly ascertain that SNC had been identified in that one instance.
	Recommendation	DNREC shall continue to consistently report SEVs to the national database. DNREC needs to ensure that inspection reports are reviewed and concurred on by appropriate management. EPA will continue to discuss data quality issues with DNREC during quarterly enforcement meetings in addition to working with DNREC to ensure that entry of SEVs is ongoing, through 106 joint work planning efforts.
	Metric(s) and Quantitative Value	8b; 100%, 8c: 0 of 7
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that	

	address this issue)	

[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	Finding	Two enforcement actions were reviewed and included appropriate corrective actions which facilitated the timely return to compliance.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation.	One informal enforcement response, an NOV returned a SNC to compliance. The NOV included a corrective action plan. One formal action, an Administrative Penalty Order, returned the SNC to compliance. The APO contained a corrective action measures and penalty payment.
	Recommendation	
	Metric(s) and Quantitative Value	9b; 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	Finding	The second SRF review found DNREC's NPDES program continuing the practice of conducting repeat inspections to encourage resolution of violations including SNC. The second review also found that DNREC's NPDES program did not initiate independent, escalated enforcement since inception of the Management Agreement, in June 2006, a recommendation from Round 1.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Program Requirement ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	FY2008 data indicates 14 major facilities with multiple inspections within the fiscal year with no enforcement actions. One facility had three inspections during the year, 12 facilities had between 5 and 10 inspections, and one facility had 41 inspections during the same fiscal year. The data also indicates 13 non-major facilities with multiple inspections within the fiscal year with no enforcement actions. Three facilities had three inspections during the year, one facility had four inspections, three facilities had five inspections, four facilities had six inspections and two facilities had nine inspections. As part of the Management Agreement, DNREC agreed to develop a Compliance and Enforcement Response Guide (CERG). DNREC submitted a draft CERG in December, 2010 which does not meet all of the criteria of a timely and appropriate enforcement policy. The Region continues to work with DNREC to develop their Compliance and Enforcement Response Guide. Two enforcement actions were initiated during FY2008. One formal action resulted in timely and appropriate enforcement within 60 days. One action was not appropriate, addressed a SNC violation with informal enforcement.
	Recommendation	DNREC should respond to all violations identified as SNC as well as non-SNC violations in accordance with the timely and appropriate policy. It is expected that DNREC initiate enforcement, including injunctive relief and compliance milestones that would return the facility to compliance. DNREC should complete the CERG and assure that this enforcement response guide includes appropriate criteria for addressing violations in a timely and appropriate manner by December 31, 2011.

	Metric(s) and Quantitative Value	10c; 50%
	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	Finding	One penalty was reviewed. The administrative penalty documentation did not consider economic benefit or gravity.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Meets SRF Requirements ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation.	The respondent was fined the maximum penalty for one day of violation, in addition to the Department's expenses.
	Recommendation	DNREC should finalize and implement the CERG incorporating updated penalty matrices. DNREC should document both gravity and economic benefit calculations for penalties in accordance with the finalized CERG and this will be monitored through the 106 workplan reporting process
	Metric(s) and Quantitative Value	11a; 0%
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue).	DNREC shall develop an updated penalty matrix, including considerations for economic benefit and implement upon finalization of the CERG. This is and continues to be discussed during the QEMs.

[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	Finding	The one action included an Administrative Penalty Assessment and Order issued in FY'2008 and did not show an additional reduction to the initial penalty assessed.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	The file documented that the permittee waived its right to a hearing request and submitted payment for the $10,000 assessed penalty and the $1,500 administrative fee, on February 11, 2008. A reduction was not warranted in this instance.
	Metric(s) and Quantitative Value	12b; 50%
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

New Castle County Department of Land Use Findings

The implementation of the Sediment and Storm Water program is delegated to the New Castle County Department of Land Use (NCCDLU). This was a targeted review of the NCCDLU stormwater program. The permits are minor and are not reported in the National Database. Therefore, there is no preliminary data report, data analysis, and no file review analysis in this report.		
.[CWA -NCC] Element 1 – Data Completeness Degree to which the Minimum Data Requirements are complete.		
1	Finding	There are minor permits in this storm water universe, as such, NCC-DLU does not utilize the national database to track facility, compliance and enforcement data. They use the Hansen Software System (1991)
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	The Hansen Software System is a fully capable system that NCCDLU relies upon heavily for tracking a wide range of storm water program activities and uses for development of its monthly engineering reports. This system has full retrieval capability.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	There is no preliminary data report, data analysis, and no file review analysis in this report for NCCDLU. This report contains the list of files reviewed and the findings and recommendations resulting from reviewing the NCCDLU files.

[CWA-NCC] 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	Finding	NCC-DLU does not utilize the national database to track facility, compliance and enforcement data. They use the Hansen Software System (1991)
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	The data maintained in the Hansen Software System is comparable to that of the national database and can be used to make some correlations in data reporting and management.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	
[CWA-NCC] Element 3 - Timeliness of Data Entry		
Degree to which the Minimum Data Requirements are timely.		
3	Finding	NCC-DLU does not utilize the national database to track facility, compliance and enforcement data. They use the Hansen Software System (1991)

	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	The 8 inspections reports reviewed show that reports were documented into the county database within 30 days.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[CWA-NCC] 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	Finding	DNREC has delegated to NCC-DLU the Erosion and Sediment Control and Storm Water Management programs. This responsibility includes plan reviews, inspections, maintenance education and training.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[CWA-NCC] Element 5 – Inspection Coverage		
Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities).		
5	Finding	In FY2008, there were roughly 2718 CCR inspections conducted.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	Due to the nature of the Storm Water Construction and Management Program, the actual inspection numbers are not exact. During this fiscal year, there were 2718 CCR inspections. Of these, 92% resulted in positive compliance determinations.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[CWA-NCC] 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	Finding	There were two distinctly different inspection reports that were documented and finalized on the same date.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	8 inspection reports were reviewed at NCCDLU. 100% of these reports documented the inspector's observations. 100% of the reports were completed timely and within one week. Reports reflected signs of "cutting and pasting" data from prior inspection reports into newer reports.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	To ensure the accuracy and legitimacy of inspections reports, develop a work product using a blank template versus working in a copy and paste mode. This practice will ensure that a clean report is created. Reports should receive review and concurrence by management.

[CWA-NCC] 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	Finding	NCCDLU does not utilize the national database. Therefore, entry of SEVs either identified through inspection or permittee self-disclosure is not possible. However, these data are tracked in the county system.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	NCCDLU tracks its noncompliance activity in the Hansen Software System (HSS), a county database. 2718 inspections were conducted, with 229 or 8% of these inspections having been entered into the HSS as exhibiting noncompliance.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[CWA-NCC] 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	Finding	NCCDLU maintains its own county database. It is not a direct or indirect user of the national database. Additionally, NCCDLU only regulates minor sources pursuant to the storm water construction general permit. The definition of SNC does not encompass minor sources.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Meets SRF Program Requirement ❒ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	NCCDLU tracks noncompliance activity in the Hansen Software System. See Finding No. 7.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	

[CWA-NCC] 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	Finding	3 consecutive NONs were issued to a site. It was not identified whether the facility was returned to compliance.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ☑ Area of Concern ❒ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	NCCDLU should initiate escalated enforcement to attain compliance expeditiously, when possible.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	State/County enforcement guidance shall identify the levels by which escalated enforcement is appropriate.

[CWA-NCC] 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	Finding	The SRF team observed two (2) occasions where NCCDLU failed to take timely and appropriate enforcement. One entity was issued 3 NONs before compliance was achieved; the other didn't receive enforcement follow-up when it was clearly warranted.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	NCCDLU should refer egregious acts of noncompliance to DNREC, as appropriate.

[CWA-NCC] 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	Finding	The review team did not identify penalty actions that included gravity and economic benefit calculations in NCCDLU files.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	NCCDLU uses a re-inspection fee schedule for subsequent noncompliance. Fees range from $50 for the first offense to $500 for the third offense. Fee for re-inspection is not a penalty for non-compliance. DNREC's 2009 Delegation Review states that, "during the delegation period, the NCCDLU has referred zero projects to DNREC for enforcement action…" In particular, they made effective use of County ordinances, show-cause hearings, withholding building permits and delaying certificates of occupancy *until* a site is in compliance with the regulations.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue).	NCCDLU should refer escalated enforcement cases to DNREC for timely and appropriate enforcement follow-up.

[CWA-NCC] 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	Finding	The review team did not identify penalty actions that included gravity and economic benefit calculations in NCCDLU files. Penalties/Fines/Fees are collected, but do not consider these factors. Any escalated enforcement cases should be referred to DNREC. During the previous 3-year delegation period, there were no enforcement referrals.
	Is this finding a(n) (select one):	❒ Best Practice or other Exemplary Performance ❒ Area of Concern ☑ Recommendation for Improvement
	Explanation. (If Area of Concern, describe why action not required, if Recommendation, provide recommended action.)	NCCDLU should refer egregious cases to DNREC for timely and appropriate enforcement follow-up. The Hansen Software System does track the violations and the associated fees that are paid for noncompliance re-inspections.
	Metric(s) and Quantitative Value	
	State Response	
	Action(s) (include any uncompleted actions from Round 1 that address this issue)	NCCDLU should refer egregious cases to DNREC for timely and appropriate enforcement follow-up.

Appendix A: Status of Recommendations From Previous Review

Status	Due Date	Media	Element	Title	Finding
Completed	12/30/2006	CAA	Insp Universe	Completing univers of inspections	DNREC committed to complete in FY-2006 an FCE at its one mega source. EPA to change class in data base to match state classification
Completed	9/29/2006	CWA	Insp Universe	Completing universe of planned inspections	DNREC needs a formal plan for inspsections including number and type
Completed	9/29/2006	CWA	Insp Universe	Completing universe of planned inspections	DNREC needs to conduct CEI, CSI, CBI or PAI at 100% of major facilities
Completed	12/29/2006	CWA	Insp Universe	Completing universe of planned inspections	DNREC needs SOPs and training for specific types of inspection. recommendations 3 through 7
Completed	9/29/2006	CAA	Violations ID'ed Appropriately	Documentation of inspection findings	CMRs should include enforcement history, especially recent enforcement history to ensure that violations/deficiencie previously discovered are no longer occurring.
Completed	9/18/2006	CAA	Violations ID'ed Appropriately	Documentation of inspection findings	Inspectors need to know EPA requires Title V certification results to be listed as failed if any violations are reported.
Completed	9/29/2006	CWA	Violations ID'ed Appropriately	Documentation of inspection findings	EPA did not perform oversight inspections during FY-2004
Working	12/29/2006	CWA	Violations ID'ed Appropriately	Documentation of inspection findings	DNREC needs SOPs in the NPDES program for writing inspection reports
Completed	9/28/2006	CAA	Violations ID'ed Timely	entering data into AFS	Stack test results should be entered into AFS in a timely manner
Working	9/29/2006	CWA	Violations ID'ed Timely	Timely identification of violations	DNREC does not have procedures for reviewing inspection reports for the NPDES program
Completed	9/29/2006	CAA	SNC Accuracy	Reporting HPV	Need to inform EPA of HPVs in a timely manner
Completed	12/29/2006	CAA	SNC Accuracy	HPV reporting	Three HPVs were reproted late.
Completed	9/29/2006	CAA	SNC Accuracy	Reporting in national database	Link HPVs in AFS
Working	9/30/2006	CWA	SNC Accuracy	Data entry	DNREC need to enter SEV into PCS
Completed	9/29/2006	CAA	Return to Compliance	Return to compliance	DNREC should evaluate its processes to close out enforcement files to better ensure that all activities necessary to return a source to compliane and to document DNREC's review of those close-out activities.
Working	9/29/2006	CWA	Return to Compliance	Return to compliance	Include a compliance schedule with enforcement actions
Completed	12/29/2006	CAA		timely and appropriate	DNREC's is not addressing HPV's in a timely manner

Completed	9/29/2006	CAA	Timely & Appropriate Actions	Timely and appropriate action	Improve procedures to ensure that all violations are reviewed to determine if they meet HPV criteria and to document HPV determinations for all major and SM sources found to be in violation.
Working	9/29/2006	CWA	Timely & Appropriate Actions	Timely and appropriate actions	The review team found a variety of enforcement response including one formal enforcement response, verbal warnings and inspections as enforcement responses.
Completed	9/29/2006	CAA	Penalty Calculations	Penalty calculation	In many of the air files reviewed where formal enforcement action had been taken, information on enforcement actions, including penalties assessed, was not included with the main files
Working	9/29/2006	CWA	Penalty Calculations	Penalty Calculation	The only formal enforcement action taken in the NPDES program did not have a documented penalty calculation in the file.
Completed	9/29/2006	CAA	Penalty Calculations	Penalty Calculations	The assessed penalty calculations were not found in the air enforcement files
Working	9/29/2006	CWA	Penalty Calculations	Penalty calculaltions	Respondent in a formal enforcement action requested a hearing, the hearing was not scheduled nor was the matter settled.
Completed	9/29/2006	CWA	Data Accurate, Data Complete	Data Quality	DNREC is not tracking all of their facility information and enforcement information.

APPENDIX B: OFFICIAL DATA PULL

Clean Air Act

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Delaware Metric	Count	Universe	Not Counted
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			65	NA	NA	NA
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			65	NA	NA	NA
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			80	NA	NA	NA
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			0	NA	NA	NA
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			110	NA	NA	NA
A01C1S	CAA Subprogram Designation: NSPS (Current)	Data Quality	State			49	NA	NA	NA
A01C2S	CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			4	NA	NA	NA
A01C3S	CAA Subprogram Designation: MACT (Current)	Data Quality	State			30	NA	NA	NA
A01C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	77.80%	100.00%	51	51	0
A01C5S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	34.90%	80.00%	4	5	1
A01C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	91.70%	98.80%	83	84	1

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Delaware Metric	Count	Universe	Not Counted
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			90	NA	NA	NA
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			92	NA	NA	NA
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			201	NA	NA	NA
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			54	NA	NA	NA
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			25	NA	NA	NA
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			19	NA	NA	NA
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			10	NA	NA	NA
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			4	NA	NA	NA
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	50.81%	100.0%	10	10	0
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	68.80%	88.9%	9	10	1
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	66.50%	100.0%	10	10	0
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			13	NA	NA	NA
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			12	NA	NA	NA

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Delaware Metric	Count	Universe	Not Counted
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			$1,095,094	NA	NA	NA
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			1	NA	NA	NA
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	63.2%	30.8%	8	26	18
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.1%	0.0%	0	178	178
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			7	NA	NA	NA
A03A0S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	33.7%	30.0%	3	10	7
A03B1S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.5%	33.8%	134	397	263
A03B2S	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.8%	71.0%	22	31	9
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	90.7%	100%	63	63	0
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	81.5%	89.2%	58	65	7

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Delaware Metric	Count	Universe	Not Counted
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) (FY07 - FY08)	Review Indicator	State	20% - 100%	69.2%	96.0%	72	75	3
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY - FY04 - FY08)	Informational Only	State	100%	88.9%	100.0%	48	48	0
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.6%	96.5%	82	85	3
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.4%	86.2%	119	138	19
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			1	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%	93.2%	98.4%	62	63	1
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.0%	41.6%	42	101	59
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	43.1%	100.0%	1	1	0
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	8.0%	6.2%	4	65	61

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	Delaware Metric	Count	Universe	Not Counted
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.7%	0.0%	0	80	80
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.3%	42.9%	3	7	4
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	40.4%	60.0%	6	10	4
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	44.5%	60.0%	3	5	2
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		37.0%	68.4%	13	19	6
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			13	NA	NA	NA
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	Greater or equal to 80%	86.4%	100.0%	3	3	0

Resource Conservation and Recovery Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	DelawareMetric Froz	Count Froz	Universe Froz	Not Counted Froz
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	NA	NA	NA
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			59	NA	NA	NA
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			550	NA	NA	NA
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			745	NA	NA	NA
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			49	NA	NA	NA
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			86	NA	NA	NA
R01B1E	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA			5	NA	NA	NA
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			76	NA	NA	NA
R01B2E	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA			5	NA	NA	NA
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			41	NA	NA	NA
R01C1E	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA			15	NA	NA	NA
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			31	NA	NA	NA
R01C2E	Number of sites with violations determined during the FY	Data Quality	EPA			2	NA	NA	NA
R01D1S	Informal actions: number of sites (1 FY)	Data Quality	State			36	NA	NA	NA

R01D1E	Informal actions: number of sites (1 FY)	Data Quality	EPA			1	NA	NA	NA
R01D2S	Informal actions: number of actions (1 FY)	Data Quality	State			38	NA	NA	NA
R01D2E	Informal actions: number of actions (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			1	NA	NA	NA
R01E1E	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA			2	NA	NA	NA
R01E2S	SNC: Number of sites in SNC (1 FY)	Data Quality	State			1	NA	NA	NA
R01E2E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA			4	NA	NA	NA
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			0	NA	NA	NA
R01F1E	Formal action: number of sites (1 FY)	Data Quality	EPA			4	NA	NA	NA
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			0	NA	NA	NA
R01F2E	Formal action: number taken (1 FY)	Data Quality	EPA			4	NA	NA	NA
R01G0S	Total amount of final penalties (1 FY)	Data Quality	State			$0	NA	NA	NA
R01G0E	Total amount of final penalties (1 FY)	Data Quality	EPA			$164,243	NA	NA	NA
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	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			0	NA	NA	NA
R02B0E	Number of sites in violation for greater than 240 days	Data Quality	EPA			7	NA	NA	NA

R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			0 / 0	0	0	0
R03A0E	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	EPA			0.0%	0	2	2
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	88.1%	100.0%	2	2	0
R05A0C	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	92.5%	100.0%	2	2	0
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.6%	26.5%	13	49	36
R05B0C	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	26.0%	32.7%	16	49	33
R05C0S	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	68.0%	79.6%	39	49	10
R05C0C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.3%	93.9%	46	49	3
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			16.0%	88	550	462
R05D0C	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			16.5%	91	550	459
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only	State			57	NA	NA	NA
R05E1C	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			58	NA	NA	NA
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			31	NA	NA	NA
R05E2C	Inspections at active transporters (5 FYs)	Informational Only	Combined			32	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			0	NA	NA	NA

R05E4C	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			0	NA	NA	NA
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			40.8%	31	76	45
R07C0E	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA			40.0%	2	5	3
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.5%	1.3%	1	76	75
R08A0C	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.8%	3.8%	3	80	77
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	80.4%	100.0%	1	1	0
R08B0E	Percent of SNC determinations made within 150 days (1 FY)	Goal	EPA	100%	64.6%	0.0%	0	66	66
R08C0S	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	57.7%	0 / 0	0	0	0
R08C0E	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	EPA	1/2 National Avg	81.4%	0 / 0	0	0	0
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	27.6%	0.0%	0	1	1
R10A0C	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	25.8%	0.0%	0	3	3
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			0	NA	NA	NA
R12A0S	No activity indicator - penalties (1 FY)	Review Indicator	State			$0	NA	NA	NA

R12B0S	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	79.0%	0 / 0	0	0	0
R12B0C	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	78.3%	100.0%	4	4	0

Clean Water Act

Metric	Metric Description	Metric Type	Agency	Natl Goal	Natl Avg	DE Metric	Count Prod	Universe Prod	Not Counted Prod	State Discrepancy (Yes/No)	State Correction
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			21	NA	NA	NA	Yes	20
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	No	
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			34	NA	NA	NA	Yes	28
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	NA	NA	NA	Yes	281
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	85.2 %	95.2%	20	21	1	No	
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.3 %	97.2%	210	216	6	No	
C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	91.0 %	90.5%	19	21	2	No	

W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	4	4	No	
W01C1C	Non-major individual permits: correctly coded limits (Current)	Info Only	Combined			82.4%	28	34	6	No	
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Info Only	Combined			79.5%	116	146	30	No	
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Info Only	Combined			74.3%	26	35	9	No	
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			2.9%	1	34	33	No	
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Info Only	Combined			0 / 0	0	0	0	No	
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Infol Only	Combined			0	NA	NA	NA	No	
W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	

W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	NA	NA	NA	No	
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			$0	NA	NA	NA	No	
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			$0	NA	NA	NA	No	
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Info Only	State			$0	NA	NA	NA	No	

W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			$0	NA	NA	NA	No	
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	0	0	0	No	
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	58.9 %	66.7%	14	21	7		
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			50.0%	17	34	17	Yes	
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	0	0	0	Yes	
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Info+C8 Only	State			0.0%	0	9	9	No	
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA	No	
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		32.7 %	0 / 0	0	0	0	No	
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		28.1 %	0 / 0	0	0	0	No	
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		54.5 %	57.1%	12	21	9	No	
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			4	NA	NA	NA	No	

W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.0 %	19.0%	4	21	17	No	
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	14.1 %	23.8%	5	21	16	No	

Appendix C: PDA Transmittal Correspondence

The PDA for the Air enforcement program was sent electronically on 5/12/09. The Region met with state officials to discuss the PDA on 5/28/09.

The PDA for the NPDES enforcement program was sent to DNREC electronically and discussions began on December 10, 2009.

From: Baltera.Danielle@epamail.epa.gov
[mailto:Baltera.Danielle@epamail.epa.gov]
Sent: Tuesday, May 19, 2009 10:02 AM
To: Foster Paul (DNREC)
Cc: Minor Dawn (DNREC); Mattio Karen (DNREC)
Subject: SRF File Selection

Below are the files that we will be reviewing during our SRF site visit beginning Monday, June 8 and ending Thursday, June 11. Please let me know if you have any questions.

Thank you,
Danielle

Danielle Baltera
State Liaison Officer
Air Protection Division
US EPA-Region 3
(215) 814-2342

Karen,

Attached you will find the official data pull (RCRA only) for the SRF review. I believe the process calls for us to share this with the States, and provide the States the opportunity to "corrected" or "updated" data. However, I should let you know that there is a lot of data here, and it may not be entirely clear in all cases what you are looking at. I will follow up with a hard copy of the overall report, and label each piece of data which is accompanied by a "drill down" that contains the underlying data which was used to develop the overall number/percentage/etc. I have also put a descriptive header on each sheet of the attached file (you should see it in print preview), which will help explain what each sheet represents.

You should spend as much or as little time on this as seems appropriate to you. If I were to focus on anything at all, I would look at those measures for which there are national program goals to be compared to:

Metric	National Goal	National Average	Delaware (State-only) Data
Two year TSDF inspection coverage	100%	88.1%	100%
One year LQG inspection coverage	20%	23.6%	26.5%
Five year LQG inspection coverage	100%	68.0%	79.6%
SNC identification rate	at least half the national average (anything lower suggests potential concerns)	3.5%	1.3%
Percent of SNC determinations made within 150 date of inspection	100%	80.4%	100%
Percent of formal actions taken that received a prior SNC listing	at least half the national average (anything lower suggests potential concerns)	57.7%	N/A (no formal actions listed)
Percent of SNCs with formal action/referral taken with 360 days	80%	27.6%	100%
Percent of final formal actions with penalty	at least half the national average (anything lower suggest potential concerns)	79.0%	N/A (no formal actions listed)

I'm sure there will be questions on this - don't hesitate to call me.

I'm hoping to come down to perform file reviews during the second half of October. I'll get you a list of files at least two weeks before our visit.

Appendix D: Preliminary Data Analysis Chart

CAA

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			65	Operating Majors and Title V Majors are identical.
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			65	Operating Majors and Title V Majors are identical.
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			80	State doesn't differentiate SM-80s
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			0	Prior history: May 2005 - 5; Dec. 2005 - 11; 2006 - 1; 2007 - 1; 2008 - 17
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			110	Metric is informational-only and data are not required to be reported.
A01C1S	CAA Subprogram Designation: NSPS	Data Quality	State			49	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
	(Current)						
A01C2S	CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			4	
A01C3S	CAA Subprogram Designation: MACT (Current)	Data Quality	State			30	
A01C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	77.80%	100.00%	Well above national average and is at the national goal of 100%.
A01C5S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	34.90%	100.00%	Well above national average.
A01C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	91.70%	98.80%	Above national average and near national goal of 100%.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			90	
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			90	One facility (Harris Manufacturing Co., Inc. - DUPONT) had 3 FCEs during FY2008. Two of them could be PCEs?
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			202	Metric is informational-only and data are not required to be reported.
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			54	
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			25	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			19	
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			10	Two additional pathways were added since initial 2008 frozen data set. **Timeliness issue?**
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			4	
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	100.00%	100%	Well above national average and is at the national goal of 100%.
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	68.8%	88.9%	Well above national average.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	66.5%	100%	Well above national average and is at the national goal of 100%.
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			13	
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			12	
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			$1,095,094	
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			1	
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	63.2%	30.8%	Well better than national average and meeting national goal of ≤

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
							50%.
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.1%	0%	Initial 2008 frozen data set had 8 stack test results without pass/fail results (compared to the current number of zero) and only 124 total stack tests (compared to the current number of 178). **Timeliness issue?**
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			7	Initial 2008 frozen data set had only 4 failed stack tests compared to the current number of 7. **Timeliness issue?**
A03A0S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	33.7%	30%	The data indicates that HPVs are not always reported in a timely manner.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A03B1S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.5%	37.9%	State is well below national average and the national goal of 100%.
A03B2S	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.8%	71%	State appears to be doing a better job of entering enforcement related MDRs in a timely manner compared to non enforcement MDRs.
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	90.7%	100%	
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	81.5%	89.2%	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) (FY07 - FY08)	Review Indicator	State	20% - 100%	69.2%	96.0%	FY2008 is year two of the current CMS SM Cycle. Therefore the goal would be 40%.
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY - FY04 - FY08)	Informational Only	State	100%	100.0%	100.0%	Metric is informational-only and data are not required to be reported.
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.6	96.5	Metric is informational-only and data are not required to be reported.
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.4	86.2	Metric is informational-only and data are not required to be reported.
A05E0S	Number of Sources with Unknown Compliance Status	Review Indicator	State			1	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
	(Current)						
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	Metric is informational-only and data are not required to be reported.
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.2%	98.4%	There were 7 facilities on the initial FY2008 frozen data set that were "not counted" as opposed to a current number of 1 facility as "not counted". **Timeliness issue?**
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21%	41.6%	

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	43.1%	100%	
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	8%	6.2%	
A08B0S	High Priority Violation Discovery Rate - Per Synthetic	Review Indicator	State	> 1/2 National Avg	0.7%	0%	No HPVs identified in FY2008 were at

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
	Minor Source (1 FY)						SM sources. Additional files at SM sources with violations reported in FY2008 will be selected to examine if the state is applying the national HPV definitions at SM sources appropriately.
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.3%	42.9%	
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	40.4%	60.0%	Additional files from facilities that did not receive an HPV listing but received an informal action will be examined.
A08E0S	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2	Review Indicator	State	> 1/2 National Avg	44.5%	60%	Initial FY2008 frozen data set had 0 facilities with failed stack test actions that received an HPV

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
	FY)						listing. The current data shows that 3 facilities received an HPV listing. **If the HPV Day Zeros are in FY2008, a timeliness issue exists. Note that this metric includes Day Zeros for failed stack tests that took place during the applicable fiscal year and two quarters after the applicable fiscal year.**
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		37%	68.4%	Appears that state addresses too many HPVs after the 270 day timeframe. Supplemental files will be chosen to help

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Initial Findings
							determine potential causes.
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			13	
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	Greater or equal to 80%	86.4%	100%	

RCRA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R01A1S	Number of operating TSDFs in RCRAInfo	Data Quality	State			2	Appears acceptable
R01A2S	Number of active LQGs in RCRAInfo	Data Quality	State			59	Appears acceptable
R01A3S	Number of active SQGs in RCRAInfo	Data Quality	State			550	Appears acceptable
R01A4S	Number of all other active sites in RCRAInfo	Data Quality	State			745	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R01A5S	Number of LQGs per latest official biennial report	Data Quality	State			49	Appears acceptable
R01B1S	Compliance monitoring: number of inspections (1 FY)	Data Quality	State			86	Appears acceptable
R01B2S	Compliance monitoring: sites inspected (1 FY)	Data Quality	State			76	Appears acceptable
R01C1S	Number of sites with violations determined at any time (1 FY)	Data Quality	State			41	Appears acceptable
R01C2S	Number of sites with violations determined during the FY	Data Quality	State			31	Appears acceptable
R01D1S	Informal action: number of sites (1 FY)	Data Quality	State			36	Appears acceptable
R01D2S	Informal action: number of actions (1 FY)	Data Quality	State			38	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R01E1S	SNC: number of sites with new SNC (1 FY)	Data Quality	State			1	Potential concern, supplemental review - SNC identification rate is less than half the national average. See metric R08A0S.
R01E2S	SNC: number of sites in SNC (1 FY)	Data Quality	State			1	Potential concern, supplemental review - SNC identification rate is less than half the national average. See metric R08A0S.
R01F1S	Formal action: number of sites (1 FY)	Data Quality	State			0	Appears acceptable
R01F2S	Formal action: number taken (1 FY)	Data Quality	State			0	Appears acceptable
R01G0S	Total amount of assessed penalties (1 FY)	Data Quality	State			$0	Appears acceptable
R02A1S	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State			0	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R02A2S	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State			0	Appears acceptable
R02B0S	Number of sites in violation for greater than 240 days	Data Quality	State			0	Appears acceptable
R03A0S	Percent SNCs entered ≥ 60 days after designation (1 FY)	Review Indicator	State			0 / 0	Appears acceptable
R05A0S	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	88.1%	100.0%	Appears acceptable
R05B0S	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.6%	26.5%	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R05C0S	Inspection coverage for LQGs (5 FY)	Goal	State	100%	68.0%	79.6%	Minor issue - While the State has not met the national goal of 100% LQG coverage over a five year period, the State has exceeded the national average (68%) for this metric. Combined State/EPA LQG five-year inspection coverage is 93.9%, which exceeds the national average of 73.3%.
R05D0S	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			16.0%	Appears acceptable
R05E1S	Inspections at active CESQGs (5 FYs)	Informational Only				57	Appears acceptable
R05E2S	Inspections at active transporters (5 FYs)	Informational Only	State			31	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R05E3S	Inspections at non-notifiers (5 FYs)	Informational Only	State			0	Appears acceptable
R05E4S	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			0	Appears acceptable
R07C0S	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State			40.8%	Appears acceptable
R08A0S	SNC identification rate at sites with inspections (1 FY)	Review indicator	State	> ½ National average	3.5%	1.3%	Potential concern, supplemental review - SNC identification rate is less than half the national average.
R08B0S	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	80.4%	100.0%	Appears acceptable
R08C0S	Percent of formal (initial and final) actions taken that received a prior SNC listing (1 FY)	Review indicator	State	> ½ National average	57.7%	0 / 0	Appears acceptable

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Delaware Metric	EPA Preliminary Analysis
R10A0S	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	27.6%	0.0%	Appears acceptable
R10B0S	No activity indicator - number of formal actions (1 FY)	Review Indicator	State			0	Appears acceptable
R12A0S	No activity indicator - penalties (1 FY)	Review indicator	State			$0	Appears acceptable
R12B0S	Percent of final formal actions with penalty (1 FY)	Review indicator	State	> ½ National average	79.0%	0 / 0	Appears acceptable

CWA

Original Data Pulled from Online Tracking Information System (OTIS)

EPA Preliminary Analysis

Metric	Metric Description	Metric Type	Agency	National Goal	National Avg	Delaware Metric	Initial Findings
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	No enforcement actions taken during this period
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	No enforcement actions taken during this period
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	No enforcement actions taken during this period
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	No penalty actions taken during this period
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			$0	No penalty actions taken during this period
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			$0	No penalty actions taken during this period
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	58.9%	66.7%	33% (7) major inspections not entered into PCS

W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			50.0%	50% (17) minor inspections not entered into PCS
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	GP data is maintained in state database
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	SEVs identified during field inspections aren't reported to PCS.
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		32.7%	0 / 0	No enforcement actions or schedules in PCS
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		28.1%	0 / 0	No violations reported to warrant Enf Action or CS
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		54.5%	57.1%	Above the nat'l avg., yet relatively low at 40%
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			4	SNC identified without enforcement follow-up.
W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.0%	19.0%	19% (4) majors in SNC is < nat'l avg.
W10A0C	Major facilities without timely	Goal	Combined	< 2%	14.1%	23.8%	Greater than the nat'l avg., 24% (5) didn't receive timely

	action (1 FY)						action.

APPENDIX E: PDA WORKSHEET

RCRA – There were no changes to the original PDA worksheet.

CAA

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A01A1S	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			65	No			Operating Majors and Title V Majors are identical.
A01A2S	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			65	No			Operating Majors and Title V Majors are identical.
A01B1S	Source Count: Synthetic Minors (Current)	Data Quality	State			80	No			State doesn't differentiate SM-80s
A01B2S	Source Count: NESHAP Minors (Current)	Data Quality	State			0	Yes	Should no longer be labeled as "Minor Concern".	We believe that this is an error; that Part 61 and Part 63 non-majors got mixed together in the 2005 and 2008 FY's. However, without the list of facilities given here, it is impossible to know for sure why these numbers were so high in 2005 and 2008.	Prior history: May 2005 - 5; Dec. 2005 - 11; 2006 - 1; 2007 - 1; 2008 - 17
A01B3S	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State			110	No			Metric is informational-only and data are not required to be reported.
A01C1S	CAA Subprogram Designation: NSPS (Current)	Data Quality	State			49	No			

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A01C2S	CAA Subprogram Designation: NESHAP (Current)	Data Quality	State			4	No			
A01C3S	CAA Subprogram Designation: MACT (Current)	Data Quality	State			30	No			
A01C4S	CAA Subprogram Designation: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	77.80%	100.00%	No			Well above national average and is at the national goal of 100%.
A01C5S	CAA Subprogram Designation: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	34.90%	100.00%	Yes	Delaware Metric = 100%, Universe = 4 and Not Counted = 0	The "1" facility under "Not Counted" is Bayhealth Medical Center - Kent General Hospital. This facility is not subject to NESHAP although AFS shows the facility subject to NESHAP. FCEs conducted at the facility on 1/20/06, 1/19/07, 2/15/08 and 2/6/09 have confirmed the NESHAP non-appplicability.	Well above national average.
A01C6S	CAA Subprogram Designation: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	91.70%	98.80%	No	None	The "1" facility under "Not Counted" is Wilmington WWTP. There have been two FCEs conducted at this facility since that date, one on 11/20/06 and one on 1/24/08. The proper MACT subparts have been added to the database.	Above national average and near national goal of 100%.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A01D1S	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State			90				
A01D2S	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State			90	Yes	Delaware Metric should be 90 not 92.	The FCE conducted on 9/22/08 was at Harris Mfg. on W. Glenwood Ave. (10 001 00237). This site has registrations only. The 2/24/08 and 8/13/08 inspections were conducted at the DuPont Blvd. site (10 001 0012) which is a TV facility. These two PCE's make up one FCE. The 8/13/08 remains an FCE and the 2/24/08 was changed to a PCE.	One facility (Harris Manufacturing Co., Inc. - DUPONT) had 3 FCEs during FY2008. Two of them could be PCEs?
A01D3S	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State			202	Yes	Delaware Metric should be 202 -added one Harris Man. PCE.	see A01D2S	Metric is informational-only and data are not required to be reported.
A01E0S	Historical Non-Compliance Counts (1 FY)	Data Quality	State			54	No			
A01F1S	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State			25	No			

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A01F2S	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State			19	No			
A01G1S	HPV: Number of New Pathways (1 FY)	Data Quality	State			10	No			Two additional pathways were added since initial 2008 frozen data set. **Timeliness issue?**
A01G2S	HPV: Number of New Sources (1 FY)	Data Quality	State			4	No			
A01H1S	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	100.00%	100%	No			Well above national average and is at the national goal of 100%.
A01H2S	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	68.8%	88.9%	No	None	The "1" facility under "Not Counted" is Delaware State University. The violating pollutant (i.e., "FACIL" has been added to this HPV.	Well above national average.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A01H3S	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	66.5%	100%	No			Well above national average and is at the national goal of 100%.
A01I1S	Formal Action: Number Issued (1 FY)	Data Quality	State			13	No			
A01I2S	Formal Action: Number of Sources (1 FY)	Data Quality	State			12	No			
A01J0S	Assessed Penalties: Total Dollar Amount (1 FY)	Data Quality	State			$1,095,094	No			
A01K0S	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State			1	No			
A02A0S	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	≤ 50%	63.2%	30.8%	No			Well better than national average and meeting national goal of ≤ 50%.
A02B1S	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.1%	0%	Yes	Universe and Not Counted should be 139 not 178. **EPA accepts**	Of the 178 stack tests on the A02B1S spreadsheet, 39 are duplicates of existing entries. Therefore the 178	Initial 2008 frozen data set had 8 stack test results without pass/fail results (compared to the current number of zero)

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
								this correction.	total referenced here should actually be 139.	and only 124 total stack tests (compared to the current number of 178). **Timeliness issue?**
A02B2S	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State			7	No			Initial 2008 frozen data set had only 4 failed stack tests compared to the current number of 7. **Timeliness issue?**
A03A0S	Percent HPVs Entered ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	33.7%	30%	No			The data indicates that HPVs are not always reported in a timely manner.
A03B1S	Percent Compliance Monitoring related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	59.5%	37.9%	Yes	Not Counted should = 222 (261-39), Universe becomes 356 (397 - 41) and Delaware Metric changes to 37.9%	In the "Not Counted" spreadsheet for this matrix there are only 261 entries. In addition, 39 of those are duplicates. Therefore the value in the "Not Counted" column should be 222.	State is well below national average and the national goal of 100%.
A03B2S	Percent Enforcement related MDR actions reported ≤ 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	70.8%	71%	No			State appears to be doing a better job of entering enforcement related MDRs in a timely manner compared to non enforcement MDRs.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A05A1S	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	90.7%	100%	No			
A05A2S	CAA Major Full Compliance Evaluation (FCE) Coverage (most recent 2 FY)	Review Indicator	State	100%	81.5%	89.2%	No			
A05B1S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle) (FY07 - FY08)	Review Indicator	State	20% - 100%	69.2%	96.0%	No			FY2008 is year two of the current CMS SM Cycle. Therefore the goal would be 40%.
A05B2S	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY - FY04 - FY08)	Informational Only	State	100%	100.0%	100.0%	No			Metric is informational-only and data are not required to be reported.
A05C0S	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		80.6	96.5	No			Metric is informational-only and data are not required to be reported.

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A05D0S	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.4	86.2	No			Metric is informational-only and data are not required to be reported.
A05E0S	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			1	No			
A05F0S	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	No			Metric is informational-only and data are not required to be reported.
A05G0S	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.2%	98.4%	No			There were 7 facilities on the initial FY2008 frozen data set that were "not counted" as opposed to a current number of 1 facility as "not counted". **Timeliness issue?**
A07C1S	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21%	41.6%	No			

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
A07C2S	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	43.1%	100%	No			
A08A0S	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	8%	6.2%	No			
A08B0S	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.7%	0%	No			No HPVs identified in FY2008 were at SM sources. Additional files at SM sources with violations reported in FY2008 will be

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
										selected to examine if the state is applying the national HPV definitions at SM sources appropriately.
A08C0S	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.3%	42.9%	No			
A08D0S	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	40.4%	60.0%	No			Additional files from facilities that did not receive an HPV listing but received an informal action will be examined.
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	44.5%	60%	No			Initial FY2008 frozen data set had 0 facilities with failed stack test actions that received an HPV listing. The current data shows that 3 facilities received an HPV listing. **If the HPV Day Zeros are in FY2008, a timeliness issue exists. Note that this metric includes Day Zeros for failed stack tests that took place during the applicable fiscal year and two quarters after the applicable fiscal year.**
A10A0S	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		37%	68.4%	No			Appears that state addresses too many HPVs after the 270 day timeframe. Supplemental files will be

Metric	Metric Description	Measure Type	Metric Type	National Goal	National Average	DNREC Metric	Agency Discrepancy	Agency Correction	Discrepancy Explanation	Initial Findings
										chosen to help determine potential causes.
A12A0S	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State			13	No			
A12B0S	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	Greater or equal to 80%	86.4%	100%	No			

CWA

Original Data Pulled from Online Tracking Information System (OTIS)												EPA Preliminary Analysis
Metric	Metric Description	Metric Type	Agency	National Goal	National Avg	Delaware Metric	State Discrepancy (Yes/No)	State Correction	State Data Source	Discrepancy Explanation	Evaluation	Initial Findings
W01A1C	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			21	Yes	20	State System	Universe Change	Appears Acceptable	Region 3 accepts the edit
W01A2C	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	No				Appears Acceptable	
W01A3C	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			34	Yes	28	State System	Universe Change	Appears Acceptable	Region 3 accepts the edit
W01A4C	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			0	Yes	281	State Database	Data not required	Appears Acceptable	Region 3 accepts the edit
W01B1C	Major individual permits: correctly coded limits (Current)	Goal	Combined	>=; 95%	85.2%	95.2%	No				Appears Acceptable	
C01B2C	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	>=; 95%	92.3%	97.2%	No				Appears Acceptable	

C01B3C	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	>=; 95%	91.0%	90.5%	No				Appears Acceptable	
W01B4C	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	No				Appears Acceptable	
W01C1C	Non-major individual permits: correctly coded limits (Current)	Info Only	Combined			82.4%	No				Inconclusive	Data are not required
C01C2C	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Info Only	Combined			79.5%	No				Inconclusive	Data are not required
C01C3C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Info Only	Combined			74.3%	No				Inconclusive	Data are not required
W01D1C	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			2.9%	No				Inconclusive	Data are not required
C01D2C	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Info Only	Combined			0 / 0	No				Inconclusive	Data are not required
W01D3C	Violations at non-majors: DMR non-receipt (3 FY)	Infol Only	Combined			0	No				Inconclusive	Data are not required

W01E1S	Informal actions: number of major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01E2S	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01E3S	Informal actions: number of non-major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01E4S	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01F1S	Formal actions: number of major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01F2S	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01F3S	Formal actions: number of non-major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01F4S	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State			0	No				Inconclusive	No enforcement action taken during period
W01G1S	Penalties: total number of penalties (1 FY)	Data Quality	State			0	No				Inconclusive	No penalty actions taken during this period
W01G2S	Penalties: total penalties (1 FY)	Data Quality	State			$0	No				Inconclusive	No penalty actions taken during this period
W01G3S	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State			$0	No				Inconclusive	No penalty actions taken during this period
W01G4S	Penalties: total collected pursuant to administrative actions (3 FY)	Info Only	State			$0	No				Inconclusive	Data are not required

W01G5S	No activity indicator - total number of penalties (1 FY)	Data Quality	State			$0	No				Inconclusive	No enforcement action taken during period
W02A0S	Actions linked to violations: major facilities (1 FY)	Data Quality	State	>=; 80%		0 / 0	No				Inconclusive	Can't evaluate - no action taken during this period
W05A0S	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	58.9%	66.7%					Potential Concern	33% (7) major inspections not entered into PCS
W05B1S	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			50.0%	Yes				Potential Concern	50% (17) minor inspections not entered into PCS
W05B2S	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0 / 0	Yes		State Database	Data Not Required	Appears Acceptable	GP data is maintained in state system
W05C0S	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Info+C8 Only	State			0.0%	No				Inconclusive	Data are not required to national data system
W07A1C	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	No				Potential Concern	SEVs aren't reported as a result of inspection
W07B0C	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		32.7%	0 / 0	No				Potential Concern	No violations reported to warrant Enf Action or CS
W07C0C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined		28.1%	0 / 0	No				Potential Concern	No violations reported to warrant Enf Action or CS
W07D0C	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined		54.5%	57.1%	No				Potential Concern	Above the nat'l avg., yet relatively low at 40%
W08A1C	Major facilities in SNC (1 FY)	Review Indicator	Combined			4	No				Potential Concern	SNC identified without enforcement follow-up

W08A2C	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined		23.0%	19.0%	No				Potential Concern	19% (4) majors in SNC is < nat'l avg.
W10A0C	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	14.1%	23.8%	No				Potential Concern	Greater than the nat'l avg., 24% (5) didn't receive timely action.

CAA APPENDIX F: FILE SELECTION

Files to be reviewed are selected according to a standard protocol (available to EPA and state users here: http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf) 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.

A. File Selection Process (Methodology of DNREC SRF Round 2 File Selection)

I. Source: OTIS File Selection Tool

II. Representative File Selection (15 files)

There were 149 compliance/enforcement records in FY2008. From the Table on page 2 in the SRF File Selection Protocol Version 2.0 (September 30, 2008), the range of facilities to select for review is from 15 to 30. **Fifteen (15)** files will be selected because the current universe of major sources is 65 sources, and the current universe of synthetic minor sources is 80 sources. Finally, 20 files were reviewed during Round 1.

Breakdown of representative files selected.

Of the 15, 8 will be examined because the facility had a compliance evaluation or compliance monitoring report noted in the base review year, and 7 will be examined because an enforcement action was taken. The evaluation files include a mix of facilities with various compliance history information in the national system. If an evaluation file had an enforcement action associated with it, both activities will be reviewed (and vice-versa when a selected action has an evaluation file).

Major Sources (12 sources total):

1) Sources that had compliance monitoring activity: **6**
2) Sources with enforcement: **6**

Synthetic Minor (SM) Sources (3 sources total):

1) Sources that had compliance monitoring activity: **2**
2) Sources with enforcement: **1**

III. Supplemental File Selection (6 files)

Supplemental files are used to ensure that the region has enough files to look at to understand whether a potential problem pointed out by data analysis is in fact a problem.

The preliminary data analysis showed the following 2 data metrics of potential concern where supplemental files could help to understand whether a potential problem pointed out by data analysis is in fact a problem:

Data Metric No.s A08B0S and A08D0S

Data Metric No. A08B0S measure a state's ability to apply the HPV definition to violations that the state has discovered at synthetic minor sources. Therefore an additional **three (3)** synthetic minor with violations that did not rise to the level of an HPV will be chosen.

Data Metric No.s A08DS, measures a state's ability to apply the HPV definition to informal actions that the state issued at major sources. Therefore an additional **three (3)** major sources that were issued an informal action but did not rise to the level of an HPV will be chosen.

B. File Selection Table

Name and ID #	FCE	PCE	Violation	Stack Test Failure	Title V Deviation	HPV	Informal Action	Formal Action	Penalty	Universe	Select
Bayhealth Medical Ctr. 10-001-00026	1	1	4	0	1	0	1	0	0	MAJR	accepted_supplemental
Christiana Care Hospital 10-003-00080	1	2	0	0	1	0	1	0	0	MAJR	accepted_supplemental
Conective DALMARVA Generation-Hay Road 10-00300388	1	6	4	0	1	0	1	0	0	MAJR	accepted_representative
Croda, Inc 10-003-00426	1	4	6	0	1	0	1	0	0	MAJR	accepted_supplemental
Crowell Corporation 10-00300092	1	0	1	0	0	0	0	0	0	SM80	accepted_supplemental
Dow Reichhold Specialty 10-001-00016	1	2	2	0	1	0	0	1	88,594	MAJR	accepted_representative
Dupont Stine-Haskell Lab 10-00300279	1	1	0	0	0	0	0	0	0	MAJR	accepted_representative
E.I. Dupont Red Lion 10-003-00673	0	1	0	0	0	0	0	1	57,500	MAJR	accepted_representative
General Plant Motors 10-003-00015	1	0	0	0	1	0	0	0	0	MAJR	accepted_representative
Hanover Foods Corp 10-00100024	1	2	6	0	0	0	1	1	11,500	MAJR	accepted_representative
Hirsh Industries 10-001-00067	1	2	0	0	1	0	0	0	0	MAJR	accepted_representative
IKO Production 10-003-00087	1	0	4	0	0	0	0	0	0	SM80	accepted_supplemental
Mountaire Farms 10-005-00073	1	3	4	0	1	0	0	1	11,500	MAJR	accepted_representative
Noramco Inc. 10-003-00324	1	3	4	0	0	0	0	1	11,500	SM80	accepted_representative
NRG Energy Ctr. 10-001-00127	1	3	1	0	1	0	0	0	0	MAJR	accepted_representative
OSG Ship Management 10-005-00093	1	2	0	0	0	0	0	1	0	MAJR	accepted_representative
Pats Aircraft 10-00500133	1	0	0	0	0	0	0	0	0	SM80	accepted_representative
Premcor Refining Group 10-003-00016	0	24	5	7	0	6	7	1	250,000	MAJR	accepted_representative
River II LLC 10-005-00081	1	0	6	0	0	0	0	1	4,600	SM80	accepted_supplemental
Siemens Healthcare Diagnostic 10-003-00125	1	0	0	0	0	0	0	0	0	SM80	accepted_representative
Wilmington Wastewater Treatment	1	2	0	0	1	0	0	0	0	MAJR	accepted_representative

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* (1) Major Sources with Compliance Monitoring activity without enforcement (6 total)
(2) Synthetic Minor Sources with Compliance Monitoring activity without enforcement (2 total)
(3) Major Sources with formal enforcement (6 total)
(4) Synthetic Minor Sources with formal enforcement (1 total)
(5) Major Sources with informal violations that did not rise to the level of an HPV (3 total) (Supplemental)
(6) Synthetic Minor Sources with violations that did not rise to the level of an HPV (3 total) (Supplemental)

RCRA File Selection

A. File Selection Process (RCRA)

Using the EPA OTIS SRF file selection templates, we choose all of the facilities which any of the following criteria for our representative sample:

- Identified in SNC status during FY08
- Identified as having formal State enforcement action during FY09 (there were no facilities in thie category)
- Identified as having more than one violation in FY08

B. File Selection Table (RCRA)

ID	RCRA ID	Evaluation	Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
DE-01	DED095146030	1	6	0	1	0	0	SQG	accepted representative
DE-02	DED165954201	1	9	0	1	0	0	LQG	accepted representative
DE-03	DED095661440	1	18	0	1	0	0	SQG	accepted representative
DE-04	DED095183336	1	7	0	1	0	0	SQG	accepted representative
DE-05	DED091911571	1	8	0	0	0	0	LQG	accepted representative
DE-06	DER000000187	1	18	0	1	0	0	SQG	accepted representative
DE-07	DED122134549	1	28	0	0	0	0	LQG	accepted representative
DE-08	DE9081135121	3	5	0	0	0	0	TSD (LDF)	accepted representative
DE-09	DED114071918	2	3	0	1	0	0	TSD (COM)	accepted representative

File Selection Table NPDES

Program ID	Inspection	Violation	Single Event Violation	SNC	Informal Action	Formal Action	Penalty	Universe	Select
DE0050601	3	5	0	0	0	0	0	Major	accepted_ representative
DE0000051	6	8	0	0	0	0	0	Major	accepted_ representative
DE0021512	5	5	0	2	0	0	0	Major	accepted_ representative
DE0050164	5	1	0	0	0	0	0	Minor	accepted_ representative
DE0050725	9	15	0	0	0	0	0	Minor	accepted_ representative
DE0000469	5	5	0	0	0	0	0	Major	accepted_ representative
DE0021539	9	1	0	0	0	0	0	Minor	accepted_ representative
DE0000256	41	5	0	0	0	0	0	Major	accepted_ representative
DE0000591	2	17	0	0	0	0	0	Minor	accepted_ representative
DE0000141	4	10	0	0	0	0	0	Minor	accepted_ representative
DE0020010	5	6	0	1	0	0	0	Major	accepted_ representative
DE0050008	6	0	0	0	0	0	0	Major	accepted_ representative
DE0000621	2	12	0	3	0	0	0	Major	accepted_ representative

Industrial General Permits

1. Kent Scrap Metal
2. Gardner Asphalt
3. Lehanes Bus Service
4. Wood Mile Service
5. Marine Lubricants, Inc.

New Castle County Department of Land Use
Wednesday, October 21, 2009

Project/Site Name	Project/Site Type	Owner/Operator	Date Received
Camp County Center	Other	Highway Word of Faith	12/19/2007
Kirkwood Branch Library	County	NCC Department of Special Services	12/20/2007
Goddard School	Commercial	CDB Property	07/11/2008
Village Plaza	Commercial	Tsaganos, Nick & Joanne	06/02/2008
Crossland/Canal View	Residential	Lorewood Grove Investment Co.	11/14/2007
Beaver Brook Apartments	Residential	Galman Beaverbrook LLC	02/28/2008
Caravel Academy	Industrial	RC Peoples Investment Corp	01/15/2008
Lagrange	Industrial	LaGrange Communities LLC	04/15/2008

Appendix G: CAA 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 indicated whether the performance indicates a practice to be highlighted or a potential issue, along with some explanation about the nature of good practice or the potential issue. The File Review Metrics Analysis Form in the report only includes metrics where potential concerns are identified, or potential areas of exemplary performance.

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

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

Clean Air Act Program

Name of State: **Delaware Dept. of Natural Resources and Environmental Control (DNREC)** **Review Period:** **FY2008**

	CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
1	Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	57%	12 of 21 of the files reviewed contained data inconsistencies between AFS and the files.
	Metric 4a	Confirm whether all commitments pursuant to a traditional CMS plan (FCE every 2 yrs at Title V majors; 3 yrs at mega-sites; 5 yrs at SM80s) or an alternative CMS plan were completed. Did the state/local agency complete all planned evaluations negotiated in a CMS plan? Yes or no? If a state/local agency implemented CMS by following a traditional CMS plan, details concerning evaluation coverage are to be discussed pursuant to the metrics under Element 5. If a state/local agency had negotiated and received approval for conducting its compliance monitoring program pursuant to an alternative plan, details concerning the alternative plan and the S/L agency's implementation (including evaluation coverage) are to be discussed under this Metric.	100%	The state committed to conducting a traditional CMS plan that includes FCEs at 100% of the major sources over two years and 100% of SM sources over 5 years. The state committed to conducting 63 FCEs at major sources over the FY2006 - 2007 CMS cycle. The state completed 100% of the FCEs based on the data provided in Data Metric 5a1. For SM-80 sources, FY2008 was the second year of the 5 year cycle. Therefore, the state was required to complete 40% of the SM-80 sources through FY2008. Data metric 5b1 shows that the state completed > 40% of the SM-80 FCEs.
	Metric 4b	Delineate the air compliance and enforcement commitments for the FY under review. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The compliance and enforcement commitments should be delineated.	NA	Delaware successfully completed all commitments specified in the Oct. 2005 Memorandum of Understanding (MOU).
4	Metric 6a	# of files reviewed with FCEs.	19	19 FCEs were reviewed
5	Metric 6b	% of FCEs that meet the definition of an FCE per the CMS policy.	100%	All 19 FCEs reviewed contained sufficient information in the CMR and/or the file to make a compliance determination. In addition all of the FCEs were completed in a timely manner.
6	Metric 6c	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	11%	Only two of the 19 CMRs reviewed included all of the required elements under § IX of the CMS. In particular, the compliance and enforcement history was missing from most of the CMRs. In addition, there appeared to be two different styles of CMRs for inspectors in the Wilmington office compared to inspectors in the Dover office. According to DNREC's Program Manager for Air Compliance & Enforcement, a new CMR template was developed in the spring of 2009 to be used by all inspectors. This template includes all of the elements required under § IX of the CMS. The review team reviewed one CMR that was recently completed using the new template and found the CMR to include all elements required under § IX of the CMS.

7	**Metric 7a**	% of CMRs or facility files reviewed that led to accurate compliance determinations.	90%	In all but two cases, the compliance determination in AFS vs. the file/FCE matched. In one case, an NOV was issued but the facility was never put in violation. In another case, the result of an FCE indicated a violation but a file review of the FCE indicated a violation. The review team believes that they were isolated incidents and believe that Delaware doesn't have a problem in accurate compliance determinations.
8	**Metric 7b**	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	53%	The review team believes that Delaware has a potential issue in reporting compliance determinations to AFS in a timely manner.
9	**Metric 8f**	% of violations in files reviewed that were accurately determined to be HPV.	100%	All files that included violations had the correct HPV determinations. However, in the future, EPA strongly recommends that DNREC shares non-HPV decisions regarding potential discretionary HPVs with EPA at T & A meetings.
10	**Metric 9a**	# of formal enforcement responses reviewed.	7	7 enforcement responses were reviewed.
11	**Metric 9b**	% of formal enforcement responses that include required corrective action (i.e., injunctive relief or other complying actions) that will return the facility to compliance in a specified time frame.	100%	All formal responses reviewed contained the documentation that required the facilities to return to compliance.
12	**Metric 10b**	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	0%	None of the two formal responses reviewed for HPVs was executed in a timely in a timely manner. One of the facilities is currently unaddressed. It is a state-owned facility where the state is currently negotiating an SEP with the facility. Because it is a state-only facility, no penalty will be assessed and the facility will be "returned to state" once the SEP is agreed to. The other facility was addressed.
13	**Metric 10c**	% of enforcement responses for HPVs appropriately addressed.	100%	All HPV related enforcement actions reviewed indicated that Delaware takes appropriate enforcement actions for HPVs
14	**Metric 11a**	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	All files with penalty calculations included calculations for both gravity and economic benefit.
15	**Metric 12c**	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	All files reviewed contained adequate documentation for the rational between the initial and final assessed penalties.
16	**Metric 12d**	% of files that document collection of penalty.	100%	All of the files reviewed contained sufficient information documenting the collection of penalties.

RCRA FILE REVIEW ANALYSIS CHART

Name of State: Delaware Review Period: FY08 (10/1/07 - 9/30/08)

RCRA Metric #	RCRA File Review Metric Description	Metric Value	Initial Findings
Metric 2c	% of files reviewed where mandatory data are accurately reflected in the national data system	96%	For one facility file reviewed (DE-15), two compliance assistance follow up site visits, which were performed in FY2008 by the State, were not entered into RCRAInfo, the national data system.
Metric 4a	Planned inspections completed (based on grant commitments)	Reported in grant end-of-year report	- Federal TSD inspections: 0 completed (commitment of 0) - State and local TSD inspections: 0 completed (commitment of 0) - Private TSD inspections: 2 completed (commitment of 2) - LDF inspections: 4 completed (commitment of 4) - LQG inspections: 29 completed (commitment of 20) - SQG inspections: 47 (commitment of 20) - Financial Assurance Evaluations: 6 completed (commitment of 6) - OAM inspections: 1 completed (commitment of 1)
Metric 4b	Planned commitments completed (grant non-inspection commitments)	Reported in grant end-of-year report	- The State program allocated funds so its staff could attend the workshop in FY08 (commitment to allocate in-kind funds for staff to attend inspector training workshops in FY08 and FY10) - CME activities are entered into RCRAInfo by the State program as they occur. SNCs are identified with timely identification in RCRAInfo (commitment to enter all required data obtained from compliance inspections into RCRAInfo no later than 30 days following the inspection. This includes violations, enforcement response, etc. The inspection should also identify SNCs and the appropriate SNC data should be entered into RCRAInfo within 30 days). See Elements 1, 2, 3, 8. - Delaware's program strives to achieve T&A criteria for each CEI associated event (commitment that all enforcement actions will be taken in accordance with the "timely and appropriate" criteria established by EPA's December 2003 "Enforcement Response Policy (ERP)". See Element 10 .
Metric 6a	# of inspection reports reviewed	37	

Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility	97%	- All inspection reports reviewed contained a written narrative. - Of the inspection reports reviewed, 68% included a completed checklist. Those inspection reports not including a completed checklist were groundwater monitoring evaluations, financial record reviews, and compliance assistance visits, which typically do not lend themselves to checklists. - Nearly a quarter of the inspection reports (22%) contained photos. - In one instance, there was not sufficient documentation to determine compliance at the facility. During an inspection at DE-04, the facility's management of pharmaceutical waste was not reviewed; this could impact the facility's generator status (SQG to LQG), which might make them subject to more stringent generator requirements.
Metric 6c	% of timely inspection reports reviewed	100%	- All written inspection reports were completed within 50 days of the performance of field work. It took an average of 14 calendar days for the report to be written, and we found the range to be between zero days (report completed on the same day as the field work) and 43 days.
Metric 7a	% of inspection reports reviewed that led to accurate compliance determinations	100%	- Based on the information available, accurate compliance determinations were made in all cases (see metric 6b above - accurate compliance determination was made for DE-04, assuming it is a SQG).
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days)	100%	All violation determinations were made and entered into the national database in a timely manner.

Metric 8d	% of violations in files reviewed that were accurately determined to be SNC	23/26 to 26/26 (88% to 100%)	- The State identified one facility in SNC status in FY08 (DE-19; the reviewers agreed with this determination). - The State identified one facility in SNC status in FY09 based on a State inspection performed in late FY08 (DE-07; the reviewer agree with this determination). - For 20 of the facilities inspected where the State identified the violations as SV, the reviewers agree with the State's determination. - There was one facility (DE-20) which would have qualified as a SNC based on the State's inspection, however, as EPA had previously identified this facility as a SNC, State designation would have been redundant. - There was one facility (DE-06) which the State designated as SV; the reviewers initially disagree with this designation. This facility had many violations, including containers in poor condition, containers incompatible with the waste, failure to store containers so as to minimize the threat of a release, unlabeled containers, undated containers, failure to make a waste determination, and failure to perform weekly inspections. The reviewers initially believed that these violations constitute SNC. The State's practice with regard to SQGs (which is this facility's generator status) is to not apply SNC status to SQGs if violations are discovered during the State's initial inspection of the facility *and* if the violations do not result in releases of hazardous waste/hazardous constituents that threaten human health and the environment. After further discussion with the State, the reviewers are on the fence as to whether or not the violations qualified as SNC; the wastes related to relatively small amounts of spillage from the process being captured (and removed daily) in disposable containers. - There are two other facilities (DE-01 and DE-16) where the reviewers are on the fence as to whether or not the violations qualified as SNC. DE-01 has a history of noncompliance, which would normally suggest SNC status, but the State decided to designate the facility as SV, because of new ownership which took over the facility three months prior to the State's inspection. The other facility, DE-16, was not in operation during the State's inspection. An inactive process vessel had material stored in it for greater than 90 days; according to the regulations, this would subject the vessel to the Subpart J (tank) rules, with which the facility was not in compliance. Normally violations of this nature would be considered SNC, but consideration to the fact that the facility was temporarily out of operation must be given. We find both these situations to be a close call as to whether or not they meet the definition of SNC (vs SV).
Metric 9a	# of enforcement responses reviewed	29	One of these actions was finalized within one month of the file review.

Metric 9b	% of enforcement responses that have returned or will return a facility in SNC to compliance	2/2 (100%)	Both enforcement responses required documentation of injunctive relief needed to address the violations: - Facility DE-07 corrected one violation at the time of inspection. All others were addressed by injunctive requirements of the State's enforcement action, documented either through submission of documents or photos demonstrating return to compliance. - Facility DE-19 corrected several violations at the time of inspection, and provided documentation of return to compliance for a number of others before the issuance of the State's enforcement action. The remaining unresolved violations were all addressed through the action by injunctive requirements; documentation of all this was required by the action and found in the State's file.
Metric 9c	% of enforcement responses that have or will return Secondary Violators (SVs) to compliance	23/23 (100%)	In all cases, facilities with secondary violations either fully returned to compliance before the State's enforcement response was finalized (three facilities), or the State's action required injunctive requirements to assure a return to full compliance (twenty facilities). Compliance with the injunctive requirements of the actions was documented in the State's files for each.
Metric 10c	% of enforcement responses reviewed that are taken in a timely manner	27/29 (93%)	- All informal enforcement actions (27) met the RCRA timeliness criteria of 150 days from date of inspection. - The State appears to have trouble meeting the timeliness criteria for formal enforcement actions as set forth by the December 2003 Hazardous Waste Civil Enforcement Response Policy, which requires issuance of unilateral or initial orders within 240 days of inspection. Facility DE-19 had a Notice of Administrative Penalty Assessment and Secretary's Order issued 257 days after the inspection which identified the violations. Facility DE-07 had a Notice of Administrative Penalty Assessment and Secretary's Order issued 446 days after identification of RCRA violations which were addressed by the action; however, this was a multi-media action (addressing RCRA and CAA violations), which probably contributed to the length of time it took to issue the enforcement action.

NPDES FILE REVIEW ANALYSIS CHART

Name of State: Delaware **Review Period: FY'2008**

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.	94%	16 of 17 surface water discharge files reviewed had accurate data in the national database (PCS).
Metric 4a	% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.	100%	All major inspections were DNREC committed to complete in accordance with DNREC's compliance monitoring strategy for FY2008 were completed.
Metric 4b	Other Commitments. Delineate the commitments for the FY under review and describe what was accomplished. This should include commitments in PPAs, PPGs, grant agreements, MOAs, or other relevant agreements. The commitments should be broken out and delineated.	N/A	DNREC does not have a PPA, PPG or grant agreement reflective of NPDES compliance monitoring and enforcement activities. A 1983 Memorandum of Agreement provides applicable compliance and enforcement commitments. The MOA maintains that DNREC shall maintain a robust enforcement program and a program to assess compliance and take timely and appropriate enforcement where warranted, including voluntary compliance. Further, DNREC and EPA are required to participate in quarterly enforcement conferences to prioritize potential enforcement actions. DNREC shall conduct compliance monitoring activity to determine compliance with permit requirements. Inspection reports will be made available for EPA review with in thirty (30) days of completion of the IR.
Metric 6a	# of inspection reports reviewed.		17 of 17 inspection reports were reviewed.
Metric 6b	% of inspection reports reviewed that are complete.	0%	In accordance with criteria found at Appendix A of the CWA Inspection Report Evaluation Guide, 0 of the inspection reports reviewed were complete. In several instances, the review team did not identify photographs, references to permit requirements and regulatory citations. Also, narrative description of the field activity and the regulated area(s) inspected, including facility descriptions were not consistently observed.
Metric 6c	% of inspection reports reviewed that provide sufficient documentation to lead to an accurate	82%	14 inspection reports reviewed contained ample information to make an accurate compliance determination. 2 completed reports did not contain a compliance status or statement; 1 report was incomplete due to a partial inspection.

	compliance determination.		
Metric 6d	% of inspection reports reviewed that are timely.	94%	16 of 17 inspection reports reviewed were timely. One (1) inspection report was partially documented and was not finalized.
Metric 7e	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	894%	16 inspection records reviewed documented accurate compliance determinations. One (1) did not comment on the compliance status at all; one (2) file2/reports contained numerous violations w/o escalated action
Metric 8b	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	100%	7 SEVs were reviewed and 7 were accurately identified. DNREC does not identify and document single event violations in the national database. However, DNREC enters SEV data into Environmental Navigator.
Metric 8c	% of single event violation(s) identified as SNC that are reported timely.	0%	0 out of 7 SEVs were reported in the timely in the national database. DNREC does not identify and document single event violations in the national database. However, during the review period, DNREC entered SEV data into Environmental Navigator.
Metric 9a	# of enforcement files reviewed	2	2 enforcement files were reviewed during the FY'2008 review period.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	One (1) enforcement response (NOV) will returned a source in SNC to compliance via the introduction of a corrective action plan. One (1) Administrative Penalty Order was returned to compliance via corrective action measures and penalty payment.
Metric 9c	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	0%	0 out of 0 files were reviewed and no enforcement actions were taken against non-SNC. There were no enforcement responses that have or will return a source with non-SNC violations to compliance.

Metric 10b	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	100%	One (1) enforcement response was addressed timely and within sixty (60) days. . One (1) Administrative Penalty Order was returned to compliance via corrective action measures and penalty payment.
Metric 10c	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	50%	One (1) enforcement action (NOV) addressed instances of SNC for which escalated enforcement would have been appropriate.
Metric 10d	% of enforcement responses reviewed that appropriately address non-SNC violations.	0%	0 out of 0 files were reviewed and no enforcement actions were taken against non-SNC. The enforcement responses did not address non-SNC violations.
Metric 10e	% enforcement responses for non-SNC violations where a response was taken in a timely manner.	0%	0 out of 0 files were reviewed and no enforcement actions were taken against non-SNC. The enforcement responses did not address non-SNC violations.
Metric 11a	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	0%	The review team identified one penalty action, where gravity and economic benefit were not considered. The maximum administrative penalty ($10,000) was assessed for the completed violation, in accordance to provisions of 7 Del. C. Section 6005(b)(3). This Section of the Delaware Code does provide for the calculation of extent and gravity and economic benefit.
Metric 12a	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	0%	The maximum administrative penalty was assessed in accordance to provisions of 7 Del. C. Section 6005(b)(3).
Metric 12b	% of enforcement actions with penalties that document collection of penalty.	100%	1 out of 1 files reviewed and found to contain penalty payment. DNREC maintains documents of receipt of penalty payments within their legal office and NPDES enforcement files.

Appendix G: Correspondence

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

The Honorable Collin O'Mara
Secretary
Delaware Department of Natural Resources
and Environmental Control
89 Kings Highway
Dover, Delaware 19901

Dear Secretary O'Mara:

On August 26, 2009, the Environmental Protection Agency (EPA) Region III will meet with the Delaware Department of Natural Resources' (DNREC) to discuss the second round of the State Review Framework (SRF) review of the DNREC's enforcement programs. The SRF is a program management tool to consistently assess EPA and State core enforcement and compliance assurance programs delegated under the Resource Conservation and Recovery Act (RCRA) Subtitle C, the Clean Water Act's National Pollutant Discharge Elimination System (NPDES), and the Clean Air Act (CAA) Stationary Source for federal fiscal year 2008. The Framework enables EPA and States to jointly assess the effectiveness of their programs, improve management practices, and ensure fair and consistent enforcement and compliance across all regions and states.

The second round of the SRF evaluation for all States nationally began in October, 2008 following an update of the protocol by a workgroup consisting of the EPA, Environmental Council of States members, national State media associations, and other State representatives. This second round of reviews is a continuation of a national effort that allows EPA to ensure that States meet agreed upon minimum performance levels in providing environmental and public health protection. The DNREC review will include:

- Discussions between Region III and DNREC program managers and staff;
- Examination of data in EPA and DNREC data systems; and
- Review of selected DNREC inspection and enforcement files and policies.

In addition, there is the option of EPA and DNREC agreeing to examine state programs that broaden the scope of traditional enforcement in areas such as pollution prevention, compliance assistance, and innovative approaches to achieving compliance,

documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. EPA welcomes suggestions from DNREC regarding other compliance programs for inclusion in the second round review. EPA expects to complete the DNREC review and issue a final report by February 28, 2009.

EPA Region III has assembled a cross-program team of managers and senior staff to conduct the review. Mr. John Armstead, EPA Region III's Acting Director of the Office of Enforcement, Compliance and Environmental Justice, is the Region's senior manager with overall responsibility for the review. Ms. Betty Barnes, of his staff, will be Region's primary contact for the review. Your staff can reach Ms. Barnes at 215-814-3447.

The purpose of the meeting on August 26, 2009 is to go over the SRF review expectations, procedures, and schedule. The initial step of the review is a preliminary data analysis and file selection. The EPA's Air Enforcement program has already begun this process, working with the Air Enforcement program at DNREC. The NPDES and RCRA programs will begin in September and October 2009, respectively. Information collected and reported will be stored in the SRF tracker, a database which stores all SRF products including draft and final documents. This management tool is used by EPA and the States to track the progress of a State review and to follow-up on the recommendations. States can view and comment on their information securely through the internet.

EPA looks forward to working with you on this project. Please contact Mr.John Armstead, Acting Director of the Office of Enforcement, Compliance and Environmental Justice at (215) 814-3127 if you have any questions regarding this state review.

Sincerely,

William C. Early
Acting Regional Administrator