

**Review of the  
Wyoming Department of Environmental Quality  
Enforcement Programs  
Using the OECA/ECOS State Review Framework (SRF)**

**Fiscal Year 2008**

October 9, 2009

FINAL



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## **I. EXECUTIVE SUMMARY**

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 address implementation of the RCRA Subtitle C, CWA NPDES, and CAA Stationary Source enforcement programs. Reviews are conducted in three phases: analyzing information from the national data systems; reviewing a limited set of state files; and development of findings and recommendations. Considerable consultation is built into the process, to ensure EPA and the state understand the causes of issues, and to seek agreement on identifying the actions needed to address problems. The Reports generated by the reviews are designed to capture the information and agreements developed during the review process in order to facilitate program improvements. The reports are designed to provide factual information and do not make determinations of program adequacy. EPA also uses the information in the reports to draw a “national picture” of enforcement and compliance, and to identify any issues that require a national response. Reports are not used to compare or rank state programs.

### **A. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS**

- **Priorities:** Wyoming identifies compliance and enforcement priorities in the 2008 Performance Partnership Agreement (PPA). EPA developed a sector-based compliance and enforcement approach based on nationwide data on industries indicating a significant probability of environmental and human health risk may exist because of the nature of their industrial processes. The State agreed to work with EPA to develop approaches to assure regulatory compliance and reduce risks that may be associated with the identified sectors. Wyoming Department of Environmental Quality (WDEQ) activities for FY2008 included site visits to inspect facilities and provide compliance assistance in the air, water and waste programs at automotive service facilities, dry cleaners, coal fired power plants, nonferrous metal mines, agricultural facilities and petroleum refineries.

- **Accomplishments:**
  - **CAA** - The State Attorney General enters into court an Order to Terminate and Dismiss Complaint only after all settlement terms are satisfied, including penalty collection. A copy of the Order with settlement amount paid is sent to EPA. The State also surpasses its inspection commitments for the air program and focused additional inspections on efforts to address deterioration of air quality in the Green River Basin.
  - **CWA** - The State has improved its internal documentation on the differences between initial and final penalty assessed as well as documentation of penalty collection.
  - **RCRA** - WDEQ exceeds the national average and meets the national goal for timely SNC determinations. WDEQ includes both economic benefit and gravity components in their penalty calculations and documents adjustment of the initial penalty to the settled amount. WDEQ requires corrective measures in their formal and informal actions to return facilities to compliance and follows up through required submittals or onsite inspections.
- **Element 13:** There is no Element 13 submission from Wyoming.

## **B. SUMMARY OF RESULTS**

- Wyoming has seven outstanding actions in the SRF Tracker from the Fiscal Year 2006 (Round 1) review; 1 for the RCRA program, 1 for the CAA program, and 5 for the CWA program. The RCRA action is the clean-up of data showing that 78 sites have been in violation for greater than 3 years. The CAA action is the failure to enter stack test data into AFS. The 5 CWA actions are 1) ensure inspection commitments are met and entered into PCS, 2) improve the timeliness of data entry, 3) improve the number of enforcement actions linked to violations, 4) improve on the timeliness of enforcement and document violation discovery, and 5) collect appropriate penalties.
- For the **Clean Air Act (CAA) enforcement program**, the review indicated that performance was good or that no improvement was needed for the following review elements: Element 4 - Completion of Commitments, Element 5 - Inspection Coverage, Element 6 - Quality of Inspection or Compliance Evaluation Reports, Element 8 - Identification of SNC and HPV, Element 9 - Enforcement actions promote return to compliance, Element 10 - Timely and appropriate

action, and Element 12 - Final penalty assessment and collection. Areas for State Attention were identified for the following review element: Element 3 - Timeliness of Data Entry. Areas for State Improvement Requiring Recommendation was identified as follows:

- Element 1 - Data Completeness, Element 2 - Data Accuracy, Element 7 - Identification of alleged violations
  - Element 1: Data Completeness
    - a. Finding 1-1: The number of HPVs and number of noncompliant sources in the database are incomplete yielding an inaccurate data metric 2a. Stack test reporting has not been corrected.
    - b. Recommendation 1-1: Reconcile the Title V universe in AFS with the State Source List then keep the universe up-to-date as changes occur. Complete initial reconciliation of source universe as a priority within 3 months of final State Review Framework report. Begin entering pollutant code and violation code for each HPV immediately for all new HPV actions. Correct number of FCE to accurately reflect actual inspections completed for the fiscal year 2010. Reconcile the database to correct the actual number of informal actions pending. Continue to input informal actions in the future. The State of Wyoming and EPA will conduct a quarterly review of the current OTIS report data metrics to discuss areas of improvements.
  - Element 2: Data Accuracy
    - a. Finding 2-1: The number of HPVs and number of noncompliant sources in the database are incomplete yielding an inaccurate data metric 2a. Stack test reporting has not been corrected.
    - b. Recommendation 2-1: The State should immediately begin entering "Date Achieved" dates for each action code. The State should correct pollutants codes for each source, correct SIC codes, update compliance status for each source, and update operating status for each source. The State will continue to send EPA a hardcopy list of all stack test dates every 6 months by January 1st and July 1st of each year.
  - Element 7: Identification of Alleged Violations
    - a. Finding 7-1: Data quality concern: both count and universe appear incorrect invalidating the data metric review indicator.
    - b. Recommendation 7-1: Follow recommendations in Element 1 and 2 to correct non-compliance status and number of FCE conducted in AIRS

database.

- Element 11: Penalty Calculation Method
  - a. Finding 11-1: Penalty calculations continue to not be available to EPA for review.
  - b. Recommendation 11-1: By March 1, 2010, EPA and the State will discuss and pursue a solution that ensures penalty calculations are documented and available for EPA review.
- For the **Clean Water Act (CWA) enforcement program** the review indicated that performance was good or that no improvement was needed for the following review elements: Element 3 - Timeliness of Data Entry, Element 9 - Enforcement actions promote return to compliance, Element 10 - Timely and appropriate action and Element 11 - Penalty calculation method, and Element 12 - Final penalty assessment and collection. One area for State Attention was identified: Element 4 - Completion of commitments. Areas for State Improvement Requiring Recommendations were identified as follows:
  - Element 1: Data Completeness
    - a. Finding 1-1: Wyoming has not accurately coded major source permit parameters, has not complied with WENDB Data Elements for major enforcement actions, and has not entered major Discharge Monitoring Report (DMR) data in a timely manner.
    - b. Recommendation 1-1: WYDEQ has agreed to provide staff and resources to ensure that requirements for all major permits will be maintained in PCS starting in FY10. EPA will provide training on PCS entry during FY10. WY must verify data accuracy for all major permit limit entries in PCS. DMRs for majors must be entered into PCS in a timely manner and documentation of when the DMRs are entered must also be maintained. Formal enforcement actions and penalties assessed for majors must be entered into PCS. EPA will track progress on these activities during mid year (4/30/10) and end of year (1/31/11) reviews
  - Element 2: Data Accuracy
    - a. Finding 2-1: WY has not complied with WENDB Data Elements for major enforcement actions and minor permit and inspection information. Of the 16 minor inspections reports reviewed, WY only entered three (3) minor inspections correctly into PCS. In the

inspection data field in PCS, inspection reports completion dates rather than the inspection dates were entered.

- b. Recommendation 2-1: Inspections at major and minor facilities and enforcement actions at major facilities must be entered into PCS. The inspection date must also be entered into the inspection data field. As discussed in the State comments under Element 1, WYDEQ is committed to entering the minimum data elements for Major discharges into PCS in FY10. Additionally, WYDEQ has stated it will immediately begin entering the correct date in the inspection data field. EPA will continue to work with WYDEQ to ensure minimum data entry requirements for minor inspections are met, and will check the State's progress during midyear (4/30/10) and end of year (1/31/11) reviews.
- o Element 5: Inspection Coverage
  - a. Finding 5-1: WY committed to 200 storm water (industrial and construction) inspections; it completed 141 storm water inspections. WY committed to inspect 12 CAFOs in FY08, but conducted 6 inspections. However, it met its commitment to inspect a CAFO at least once during the life of its permit. WY does not conduct compliance evaluation inspections (CEIs) at its major facilities.
  - b. Recommendation 5-1: EPA and WYDEQ will negotiate inspection coverage commitments for FY10 to allow WYDEQ the flexibility to address its most pressing environmental concerns while still operating within the guidelines of the Compliance Monitoring Strategy. EPA and WYDEQ will finalize the inspection plan by 10/31/09.
- o Element 6: Quality of Inspection or Compliance Evaluation Reports
  - a. Finding 6-1: WY does not conduct CEIs at major facilities. The WY inspection checklists for all reports reviewed do not address/cover all permit requirements. In FY09, WY revised its CAFO inspection checklist to include all of its permit requirements. The issues identified in the file review of the FY08 CAFO inspection reports were resolved with this new checklist. WY has indicated it will review its storm water inspection checklist to address similar concerns.
  - b. Recommendation 6-1: Inspections which do not include a plant walk through and verification of operation and maintenance procedures can not be categorized as a CEI or CSI in PCS. EPA and/or its contractors



will conduct inspections at major facilities in FY10 to ensure that the minimum inspection coverage under the Compliance Monitoring Strategy is met. EPA encourages WYDEQ to accompany EPA on these inspections to gain a better understanding of the requirements of a CEI and proper documentation of the activities. EPA will take the lead on any enforcement follow up at the sites for which it conducts the inspection. WYDEQ will update its storm water inspection checklist in FY10 to address the completeness issue. EPA will track progress on this activity during mid year (4/30/10) and end of year (1/31/11) reviews.

- Element 7: Identification of Alleged Violations
  - a. Finding 7-1: EPA identified one single-event violation at a major facility which was not entered into PCS. Patterns of noncompliance which do not reach the SNC definition do not appear to be reviewed for possible compliance issues.
  - b. Recommendation 7-1: WYDEQ has agreed to enter the required data related to Majors in PCS beginning in FY10 (see State comment under Element 1). This will include single event violations at Major facilities. EPA will provide training in FY10 including the entry of single event violations into PCS. EPA will monitor WYDEQ progress during midyear (4/30/10) and end of year (1/31/11) reviews. In FY10 WYDEQ must implement its EMS with regards to patterns of violation identified through DMR reviews. EPA will conduct targeted reviews of the OTIS data during FY10 to determine if the EMS is being followed. EPA will discuss the findings of its review with WYDEQ during midyear (4/30/10) and end of year (1/31/11) reviews.
- Element 8: Identification of SNC and HPV
  - a. Finding 8-1: One facility was identified as SNC for DMR nonreceipt when the DMRs had been received but not entered into PCS.
  - b. Recommendation 8-1: WYDEQ has agreed to provide staff and resources to ensure that requirements for all major permits will be maintained in PCS starting in FY10. EPA will provide training in FY10 including the entry of single event violations into PCS. EPA will monitor WYDEQ progress during midyear (4/30/10) and end of year (1/31/11) reviews.

- For the **Resource Conservation and Recovery Act (RCRA) enforcement program**, the review indicated that performance was good or that no improvement was needed for the following review elements: Element 1 - Data Completeness, Element 4 - Completion of Commitments, Element 7 - Identification of Alleged Violations, Element 8 - Identification of SNC and HPV, Element 9 - Enforcement actions promote return to compliance, Element 11 - Penalty calculation method, and Element 12 - Final penalty assessment and collection. Areas for State Attention were identified for the following review elements: Element 2 - Data Accuracy, Element 3—Timeliness of Data Entry, Element 5 - Inspection Coverage, Element 6 - Quality of Inspection or Compliance Evaluation Reports, and Element 10 - Timely and appropriate action. No Areas for State Improvement Requiring Recommendations were identified.

### **C. SIGNIFICANT CROSS-MEDIA FINDINGS AND RECOMMENDATIONS**

- Data Accuracy - This is an issue across all three programs at WDEQ, particularly with regard to accurate compliance status of facilities. The RCRA program has made progress on correcting this issue, and continues to work on cleaning up old data as time and resources allow.
- Inspection Coverage - This is an issue for both the CWA and RCRA programs. One common theme in both programs is the need to shift focus from one category (minors or CESQGs) to another (majors/stormwater/CAFOs or LQGs). The State may want to review targeting strategies for both programs to address these issues.
- Identification of Alleged Violations - This is an issue for the CAA and CWA programs. Compliance status is again an issue for this element. For the CAA program, incorrect compliance determinations were noted in 2 out of 3 violations reviewed. The CWA program failed to identify facilities with patterns of DMR violations to be reviewed for possible compliance issues.

## II. BACKGROUND INFORMATION

### ON STATE PROGRAM AND REVIEW PROCESS

[Information for this section has been obtained from available sources (web-sites, PPAs, etc.). Information has been requested from the State and some has been provided.]

#### **A. GENERAL PROGRAM OVERVIEW**

- **Agency Structure:** The Wyoming Environmental Quality Act of 1973 outlines the policy of the state which is "to prevent, reduce, and eliminate pollution; to preserve, and enhance the air, water, and reclaim the land of Wyoming; to plan the development, use, reclamation, preservation and enhancement of the air, land and water resources". The WDEQ is responsible for implementing the policies and goals of the Act. WDEQ contributes to Wyoming's quality of life through a combination of monitoring, permitting, inspection, enforcement and restoration/remediation activities which protect, conserve and enhance the environment while supporting responsible stewardship of the State's resources. The Air Quality Division, the Water Quality Division and the Solid and Hazardous Waste Division are three of the seven divisions in WDEQ.
- **Compliance/Enforcement Program Structure:** The WDEQ is decentralized, with the CAA, CWA and RCRA programs in three different divisions.
- **Roles and responsibilities:** Inspection and Compliance is the responsibility of the WDEQ. The Attorney General's office is involved with administrative enforcement actions and civil judicial actions.
- **Local Agencies included/excluded from review:** No local agencies are delegated to conduct work in the programs evaluated through SRF.
- **Resources:**
  - **CAA** - The Air Quality Division has 24 FTE in the Air Quality Compliance Program. The Attorney General's office provides assistance to the Air program with one full time attorney, with assistance from 2 other attorneys. The inspectors are distributed in Regional offices as follows: Statewide - 2 Asbestos inspectors, Cheyenne - 3 inspectors,

Casper - 2 inspectors, Sheridan - 5 inspectors, Lander - 9 inspectors, and Pinedale - 1 inspector.

- **CWA** - The Water Quality Division has 11 FTE in the Water Quality Compliance Program; 8 inspectors and 3 in compliance. The Attorney General's office provides assistance to the Water program with 2 full time attorneys. The program also has 2 temporary service employees. The inspectors are distributed in Regional offices as follows: Sheridan - 4 compliance inspectors, Casper - 1 compliance inspector, Cheyenne - 1 compliance inspector, Lander - 1 compliance inspector, and Rock Springs - 1 compliance inspector.
- **RCRA** – The Solid and Hazardous Waste Division has 3.5 FTE dedicated to RCRA inspection and compliance work.

- **Staffing/Training:**

- CAA and CWA programs are both fully staffed. No additional information is available.

- **Data reporting systems/architecture:**

- **CAA** - Wyoming enters minimum data requirements directly into AFS.
- **CWA** - Wyoming uses a State database for managing their NPDES program. NPDES Major facility information is entered directly in PCS.
- **RCRA** - Wyoming uses RCRAInfo to manage data related to implementation of the RCRA program.

## **B. MAJOR STATE PRIORITIES AND ACOMPLISHMENTS**

- **Priorities:**

### **CAA**

The Air Quality Division monitors Wyoming's air resources and through permitting and inspection programs works to keep the air clean and healthy.

### **CWA**

The Water Quality Division is responsible for monitoring and protecting the quality of the State's water resources (both surface and groundwater) to keep it clean and healthy.

### **RCRA**

The Inspection & Compliance group in the Solid and Hazardous Waste Division is

responsible for assuring Wyoming governmental, business and industrial entities are in compliance with the Wyoming Solid and Hazardous Waste Rules & Regulations. The following types of inspections are performed by the group to assure compliance: open and closed municipal landfills; industrial landfills; construction/demolition landfills; solid waste transfer, treatment and storage facilities; hazardous waste generators; used oil generators; hazardous waste treatment, storage and disposal facilities (TSDs); asbestos management facilities; and petroleum-contaminated soils facilities. The group uses various regulatory inspection checklists to assure compliance with the rules and regulations. The group also responds to various types of solid and hazardous waste complaints and conducts follow-up inspections to ensure compliance.

- **Accomplishments:** State accomplishments are identified in section I.A. of the Executive Summary.
- **Element 13:** Wyoming has not submitted Element 13 information.

### **C. PROCESS FOR SRF REVIEW**

The following are the key steps in the review process and related information:

- **Review Period:** Fiscal Year 2008
- **Key Dates:** Kick-off letter mailed February 9, 2009, data pull/PDA January 30, 2009, on-site review: CAA May 5, 2009; CWA May 4, 2009; RCRA June 11, 2009; Draft Report sent to state on August 10, 2009.
- **Communication with the State:** Communications with the State have occurred by letter (e.g. kick-off letter), conference call (e.g. kick-off meetings, file review exit meetings, follow-up discussions with staff/managers), on site discussions (e.g. file review), and e-mail (e.g. PDA transmittal, file selection list transmittal, etc.). The final report will be mailed to the State Environmental Director. This will be followed by a meeting between EPA and the State.
- **List state and regional lead contacts for review.** Wyoming's contact for the SRF is Todd Parfitt. Region 8's SRF Coordinator is Corbin Darling. Region 8 program staff, who performed on-site reviews, and data and file metric analyses are Scott Whitmore, CAA; Lee Hanley, CWA; and, Linda Jacobson, RCRA.

### III. STATUS OF OUTSTANDING RECOMMENDATIONS FROM PREVIOUS REVIEWS

During the first SRF review of Wyoming’s compliance and enforcement programs, Region 8 and Wyoming identified a number of actions to be taken to address issues found during the review. The table below shows the actions that have not been completed at the time of the current SRF review. (Appendix A contains a comprehensive list of completed and outstanding actions for reference).

State	Status	Due Date	Media	Title	Finding	Element
WY - Round 1	Working	9/30/2009	RCRA	Accuracy of Minimum Data Requirements	The national data bases reflect that the state has 78 sites in violation for greater than 3 years. Many of these are residual data remnants from EPA-lead inspections prior to Wyoming’s authorization in October 1995. Appropriate follow-up action to close	Data Accurate
Total: □C0						
WY - Round 1	Working	9/30/2009	CWA	Ensure inspection commitments are met and entered into PCS.	The inspection commitment for storm water was not met.	Insp Universe
Total: □C0						
WY - Round 1	Working	9/30/2009	CWA	Improve on the timeliness of enforcement and document violation discovery.	Of the 10 formal actions reviewed, all were determined to be appropriate, and four were determined to be timely. For two actions, reviewers could not determine when the violation was identified to determine timeliness.	Timely & Appropriate Actions
Total: □C0						
WY - Round 1	Working	9/30/2009	CWA	Collect appropriate penalties.	Of the 8 penalties reviewed, four collected appropriate economic benefit and gravity as determined using EPA’s Interim Clean Water Act Settlement Penalty Policy.	Penalties Collected
Total: □C0						

WY - Round 1	Working	9/30/2009	CWA	Improve the timeliness of data entry	Twenty two of the forty seven DMRs reviewed had dates of data entry (and thirty nine were initialed) and, of those, about half (22) were entered in a timely manner. Only one of the thirty four inspection reports reviewed had dates of data entry (and fou	Data Timely
Total:	□C0					
WY - Round 1	Working	9/30/2009	CWA	Improve the number of enforcement actions linked to violations.	None of the eight enforcement actions are linked to violations in PCS.	Data Accurate
Total:	□C0					
WY - Round 1	Long Term Resolution	9/30/2009	CAA	Report stack test data to AFS.	The Division does not enter stack test data into the AFS. As part of the EPA's CMS, stack test information is required, as a component of the Minimum Data Requirements, to be tracked and entered into the AFS database.	Data Accurate
Total:	□C0					

## IV. FINDINGS

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

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



## Clean Air Act Program

Review elements where SRF program requirements are being met with no issues identified are:

- Element 4 – Completion of Commitments
- Element 5 - Inspection Coverage
- Element 6 - Quality of Inspection or Compliance Evaluation Reports
- Element 8 – Identification of SNC and HPV
- Element 9 - Enforcement Actions Promote Return to Compliance
- Element 10 - Timely and Appropriate Action
- Element 12 - Final penalty assessment and collection

Review element findings are as follows:

Element 1 Data Completeness. Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Data metric results indicate incomplete data in several areas. Review of randomly selected files revealed missing data elements in several files.
	Explanation.	<p>16 of 20 files reviewed had at least one missing MDR: Action items for FCE and NOV were missing pollutants, Title 5 program codes, addresses, Sector-Township-Range; and action codes were not linked.</p> <p>In past years, the responsibility of entering data into the AIRS database was assigned to a trained database administrator. The recent assignment was delegated to a permit engineer whose priority is to the permit program. This reassignment to a permit engineer contributed to incomplete data entry.</p>
	Metric(s) and Quantitative Value	<p>1a: The number of majors in the database universe varies greatly between AFS Operating Majors, AFS Title V majors, and State Data Source List. AFS shows 201 Operating Majors, 160 Title V majors while the State Data Source shows 132 for both categories.</p> <p>1d: Number of FCE is well below the actual number of FCE completed for FY2008. CMS annual report shows 291 FCEs; AFS shows 35 FCEs.</p> <p>1f: Number of informal violations appears low. State database reports 57; AFS reports 16.</p> <p>1h: Pollutant code and Violation code are missing for HPV actions.</p>
	State Response	<p>Only Title V sources should be classified as major. Not all NOV's are for facilities that can have AFS number assigned to them.</p> <p>Additional State comments are attached to this report in Appendix H.</p>

	<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>Reconcile the Title V universe in AFS with the State Source List then keep the universe up-to-date as changes occur. Complete initial reconciliation of source universe as a priority within 3 months of final State Review Framework report.</p> <p>Begin entering pollutant code and violation code for each HPV immediately for all new HPV actions.</p> <p>Correct number of FCE to accurately reflect actual inspections completed for the fiscal year 2010.</p> <p>Reconcile the database to correct the actual number of informal actions pending. Continue to input informal actions in the future.</p> <p>The State of Wyoming and EPA will conduct a quarterly review of the current OTIS report data metrics to discuss areas of improvements.</p>
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**Element 2 Data Accuracy. Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).**

2-1	<p>Is this finding a(n) (select one):</p>	<p><input type="checkbox"/> Good Practice</p> <p><input type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for State Attention</p> <p><input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required</p>
	<p>Finding</p>	<p>15 of 20 files reviewed revealed some incorrect data elements. The number of HPVs and number of noncompliant sources in the database are incomplete yielding an inaccurate data metric 2a. Stack test reporting has not been corrected. This is an outstanding action from the 2006 SRF review.</p>
	<p>Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)</p>	<p>Inspection dates were entered in the Date Scheduled element but not the Date Achieved (resulting in inaccurate OTIS data metrics), incorrect pollutants, one incorrect SIC code, incorrect compliance status, incorrect operating status.</p> <p>Number of non-compliant sources is lower than the reported HPV sources. HPV sources should be a subset of non-compliant sources.</p>
	<p>Metric(s) and Quantitative Value</p>	<p>2a: number of HPVs/Number of NC Sources = 200%</p>
	<p>State Response</p>	<p>The State has agreed to address incorrect data elements. Additional State comments are attached to this report in Appendix H.</p>
	<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	<p>The State should immediately begin entering "Date Achieved" dates for each action code.</p> <p>The State should correct pollutants codes for each source, correct SIC codes, update compliance status for each source, and update operating status for each source. Complete an initial audit within 6 months of final State Review Framework report.</p> <p>There is an Outstanding Tracker item concerning reporting of stack test data to AFS. The FY2008 Performance</p>

	Partnership Agreement (PPA) between Region 8 and Wyoming addresses this issue. The following statement is in the PPA: “At this time, the State is beginning and Information Technology initiative which among other items will include a data collection and storage capability to aid in the tracking, reporting and retrieval of stack test data. The stack test storage and retrieval portion of this data system is projected for completion in the summer of 2010. In the interim, the State will work cooperatively with Region 8 and make stack test report hard copy files available to EPA such that EPA can review and input data to their data system.” The State should start entering stack test data into the AIRS database beginning with the federal fiscal year following the completion of the IT Project. In the interim, the State and EPA are working cooperatively together to input available information. The State will continue to send EPA a hardcopy list of all stack test dates every 6 months by January 1st and July 1st of each year.
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**Element 3 Timeliness of Data Entry. Degree to which the Minimum Data Requirements are timely.**

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Entry of HPV data elements not meeting national goal. Entry of HPV data should be given a high priority over other AIRS data entry. Put actions for HPVs on top of the pile and enter them first and ensure Day Zero pathways are created within 60 days of Discovery of violation.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	Only 60% of Day Zero Pathways were entered within 60 days of discovery.
	Metric(s) and Quantitative Value	3a: 4 of 10 HPV day zeros were entered greater than 60 days after discovery, national goal is 100%  3b1: 151 of 180 action codes were entered within 60 days, national goal is 100%
	State Response	No response Additional State comments are attached to this report in Appendix H.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 4 Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e. PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.**

4-1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	All PPA commitments were met including 2 exemplary areas of performance.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>Exemplary Performance: Compliance Reports: The State is submitting 100% of their inspection reports to EPA and normally within 60 days of completion of the report. The commitment is submittal of 10% of inspection reports.</p> <p>Exemplary Performance: Sector Workplan: the State and Region 8 are working collaboratively on industry sector initiatives for petroleum refining, acid manufacturing, power plants, and oil &amp; gas production.</p> <p>The sources on a five-year inspection schedule are remotely located and have minimal observational value. They consist mostly of compressor stations and storage tank batteries. State inspectors monitor compliance of these sites continuous every year by reviewing Title V compliance certifications and other compliance reports. For more information on the alternative CMS plan, see Element 5.</p>
	Metric(s) and Quantitative Value	Commitments pursuant to an alternative CMS plan = 102%
	State Response	
	Action(s)	

**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).**

5-1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Inspection commitments for FY2008 were met and 6 additional inspections were conducted.

<p>Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)</p>	<p>The State of Wyoming had negotiated and received approval for conducting compliance monitoring program pursuant to an alternative plan. The State fully completed the alternate plan. The State completed 82 annual inspections, 25 biennial inspections, 95 five-year inspections, and 89 additional minor SIP sources. The sources on a five-year inspection schedule are remotely located and have minimal observational value. They consist mostly of compressor stations and storage tank batteries. State inspectors monitor compliance of these sites continuous every year by reviewing Title V compliance certifications and other compliance reports. The State also targets two industrial groups with 2 FCEs every year - petroleum refineries due to the complexity of operation and amount of emission, and the trona industry where deterioration of air quality in the Green River Basin warrants additional attention. The State also conducted 6 unplanned inspections responding to concerns that arose during the year.</p>
<p>Metric(s) and Quantitative Value</p>	<p>Metric 5a does not properly measure the performance of the State's Alternate CMS Plan. The alternate plan was more than 100% completed.</p>
<p>State Response</p>	<p>No response</p>
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

**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.**

<p>6-1 Is this finding a(n) (select one):</p>	<p><input checked="" type="checkbox"/> Good Practice  <input type="checkbox"/> Meets SRF Program Requirements  <input type="checkbox"/> Area for State Attention  <input type="checkbox"/> Area for State Improvement – Recommendations Required</p>
<p>Finding</p>	<p>Compliance Monitoring Reports continue to be complete and accurate.</p>
<p>Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)</p>	<p>Reports contain all required elements plus detailed description of process, permitting history, and enforcement history. Reports typically include multiple appendices of supporting compliance documents.</p>
<p>Metric(s) and Quantitative Value</p>	<p>20 files reviewed. Compliance monitoring reports 100% complete.</p>

State Response	No response
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Data quality concern: both count and universe appear incorrect invaliding the data metric review indicator.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>The metric 7c1 is reporting only 5 sources in non-compliance and only 53 sources having an FCE in last full FY. There were reported 297 FCE last year and there were at least 10 known sources in non-compliance. Poor data quality invalidates this review indicator.</p> <p>The on-site file review found 3 minor source non-HPV violations, 2 of these had incorrect compliance status in the AIRS database.</p> <p>State update in AFS not appearing as of June 13, 2009 refresh, counts remain unchanged.</p>
	Metric(s) and Quantitative Value	<p>7b: 1 of 3 non-HPV evaluated during the file review provided a correct compliance determination yielding a 33% indicator value</p> <p>7c: 5 of 53 sources with FCE are coded as non-compliance status yielding 9.4%, National average is 21.5%</p>
	State Response	<p>AFS recently updated.</p> <p>Additional State comments are attached to this report in Appendix H.</p>
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	Follow recommendations in Element 1 and 2 to correct non-compliance status and number of FCE conducted in AIRS database.

**Element 8 Identification of SNC and HPV. Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.**

8-1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	All violations found were appropriately designated as HPV or non-HPV according to policy.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	State is attentive to the HPV policy and accurately designates violations as HPV then notifies EPA in a timely fashion.
	Metric(s) and Quantitative Value	HPV discovery rate per major source = 5%
	State Response	No response
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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	Finding	State emphasizes a return to compliance. Any delay is justified and communicated to EPA.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	All except one was returned to compliance. Exception is Title V NOx periodic test delayed due to physical sampling constraints - being handled thru Title V permit renewal.
	Metric(s) and Quantitative Value	9b: 91% - 10 of 11 violators were returned to compliance
	State Response	No response
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 10 Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement action in accordance with policy relating to specific media.**

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	<p>All High Priority Violations were addressed through a referral to the State Attorney General Office.</p> <p>All but one High Priority Violations was addressed in a timely manner.</p>
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	<p>100% of high priority violations were referred to the State Attorney General Office.</p> <p>93% of high priority violations were addressed within 270 days. National average is 60%. One referral was delayed because of pending permit action. Emission factor was incorrect for type of fuel. Issuance of permit with correct factor rectified error and returned source to compliance.</p>



Metric(s) and Quantitative Value	10a: 5% of high priority violations did not meet timeliness goal (1 of 20)
State Response	No response
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**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 BEN model or other method that produces results consistent with national policy.**

11-1	Is this finding a(n) (select one): <input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	Initial penalty calculations continue to not be available to EPA for review.
Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement, provide recommended action.)	Penalty calculations were not found in the files reviewed. EPA was, therefore, unable to document initial gravity and economic benefit calculations from the files. EPA and the State do have frequent and substantive information exchanges concerning all areas of timeliness and appropriate response except initial penalty calculation. EPA presents its initial penalty calculation to the State for consideration. EPA has all information necessary to recommend a lead change or overfile on a case except initial penalty proposed. EPA does not have the calculations necessary to assess the State's initial proposed penalty and can not determine if appropriate gravity and economic benefit policies are followed.

This concern was addressed in the Round 1 SRF review by adding language to the PPA which provides EPA an opportunity to discuss with the State, past settlement actions and identify any inconsistencies with the requirements of Section 110(a)(2) of the Clean Air Act.

	annual meetings would be conducted to discuss past settlement actions and any significant differences between penalty amounts calculated by EPA and actual settlement amount.
Metric(s) and Quantitative Value	N/A. Information not available.
State Response	<p>AQD does not have an official or formal penalty policy. Compliance Program Manager provides 3 areas of information to the Air Quality Division Administrator for consideration: 1) federal CAA Penalty Policy criteria as a guide, 2) history of previous similar violations, and 3) circumstances of this violation. The Administrator then uses his discretion and decides on an initial penalty amount. The Administrator attends the NOV conferences where penalty is settled. All final amounts are decided by Administrator.</p> <p>“You asked to add the requirement that we discuss our economic benefit and gravity penalty calculations with EPA prior to settlement – basically discuss the settlement amount with them prior to settlement. We have not been willing to do that in the past and would not be willing to agree to do it now. AQD’s position has been and is that we will evaluate each NOV on its merits and determine a settlement amount that meets the State’s needs, considering EPA’s penalty policy as a factor. After we’ve completed the settlement, then EPA can review our settlement action and determine if they are satisfied. If not, EPA always has discretion to overfile and seek a higher penalty.”</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	By March 1, 2010, EPA and the State will discuss and pursue a solution that ensures penalty calculations are documented and available for EPA review.

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

12-1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Final penalty assessment and collection is documented in a court order and a copy sent to EPA.

<p>Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)</p>	<p>State Attorney General enters into court an <u>Order to Terminate and Dismiss Complaint</u> only after all settlement terms are satisfied including penalty collection. Copy of Order with settlement amount paid is sent to EPA.</p>
<p>Metric(s) and Quantitative Value</p>	<p>12b: 100% percent of actions at HPVs with penalty (1 FY). Goal is greater than 80% and national average is 86%.</p>
<p>State Response</p>	<p>No response</p>
<p>Action(s) (Include any uncompleted actions from Round 1 that address this issue.)</p>	

## Clean Water Act Program

Review elements where SRF program requirements are being met with no issues identified are:

- Element 3 - Timeliness of Data Entry
- Element 9 - Enforcement Actions Promote Return to Compliance
- Element 10 - Timely and appropriate action
- Element 11 - Penalty calculation method
- Element 12 – Final Penalty Assessment and Collection

Review element findings are as follows:

Element 1 Data Completeness. Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	WYDEQ has not accurately coded major source permit parameters, has not complied with WENDB Data Elements for entry of major enforcement actions, and has not entered major Discharge Monitoring Report (DMR) data into PCS in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	WYDEQ maintains an internal database for NPDES. Information on both majors and minors are entered into this database, which appears to have accurate and timely data entered. Information on majors and some minor data is also entered into the database of record, PCS; which results in double entry of information. Currently, WYDEQ has one person who is trained in PCS data entry; however PCS data entry is a small portion of their job duties.
	Metric(s) and Quantitative Value	1b1 – Of majors with individual permits, the percent with permit limits present in the national database: 56.5% 1b2 -- Of majors with individual permits, the percent of major facility outfalls for which DMR data was entered: the Official Data Set indicates 0/0; OTIS SRF Data Metric Report of Frozen FY08 Data indicates 21.5% 1b3 – # of DMR forms received from major dischargers with individual permits divided by the total number of active majors with individual permits: the Official Data Set indicates 0/0; OTIS SRF Data Metric Report of Frozen FY08 Data indicates 82.6% 1f1 – Number of major facilities with formal actions. The Official Data Set indicates 0; State reports 1 Major facility had formal action taken. 1f2 -- Total number of formal actions taken against major facilities. The Official Data Set indicates 0; State reports 5 NOV's issued to 1 Major facility.
	State Response	“WYDEQ resolved to use the ICIS batch user option and invested significant state time and resources to complete programming and system upgrades to accomplish this task. WYDEQ continues to wait on EPA completion of the ICIS system to facilitate the upload of data. WYDEQ maintains a complete and accurate record of all permit information and has committed in the PPA to provide reports to EPA on request. Until the ICIS problems are

	<p>repaired, the WYPDES program will commit compliance staff and resources to meeting and maintaining PCS requirements for all major permits. EPA has committed to provide training on PCS entry to help accomplish this goal.”</p> <p>Additional State comments are attached to this report in Appendix H.</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>WYDEQ has agreed to provide staff and resources to ensure that requirements for all major permits will be maintained in PCS starting in FY10. EPA will provide training on PCS entry during FY10. WY must verify data accuracy for all major permit limit entries in PCS. DMRs for majors must be entered into PCS in a timely manner and documentation of when the DMRs are entered must also be maintained. Formal enforcement actions and penalties assessed for majors must be entered into PCS. EPA will track progress on these activities during mid year (4/30/10) and end of year (1/31/11) reviews.</p>

**Element 2 Data Accuracy. Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).**

2-1	<p>Is this finding a(n) (select one):</p> <p><input type="checkbox"/> Good Practice</p> <p><input type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for State Attention</p> <p><input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required</p>
Finding	<p>WYDEQ has not complied with WENDB Data Elements for entry of major enforcement actions and minor permit and inspection information into PCS.</p> <p>In the inspection date data field in PCS, inspection reports completion dates, rather than the inspection dates, were entered.</p>
Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>Of the 16 minor inspections reports reviewed, WYDEQ entered three (3) minor inspections into PCS. As discussed in Element 1, WYDEQ maintains an internal database with minor and major NPDES data.</p> <p>Of the seven inspection entered into PCS, four were entered with the inspection date the date the inspect report was completed rather than the date the inspection was conducted. During discussions with WYDEQ on this finding WYDEQ stated that they thought the correct date to enter was the inspection complete date rather than the inspection date. WYDEQ stated they would immediately correct this issue.</p>
Metric(s) and Quantitative Value	<p>2a - Number of formal enforcement actions, taken against major facilities, with enforcement violation type (EVTP in PCS or equivalent in ICIS-NPDES) codes entered. 0/0</p> <p>2b – Files reviewed where data is accurately reflected in the national data system. 19%</p>
State Response	<p>See state comments under Element 1.</p> <p>Additional State comments are attached to this report in Appendix H.</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>The FY06 SRF Review recommended inspections be entered into PCS (see Tracker item E1). This remains an area of concern.</p> <p>Inspections at major and minor facilities and enforcement actions at major facilities must be entered into PCS. The inspection date must also be entered into the inspection data field. As discussed in the State comments under Element 1, WYDEQ is committed to entering the minimum data elements for Major discharges into PCS in FY10. Additionally, WYDEQ has stated it will immediately begin entering the correct date in the inspection data field. EPA will continue to work with WYDEQ to ensure minimum data entry requirements for minor inspections are met, and will check the State’s progress during midyear (4/30/10) and end of year (1/31/11) reviews.</p>

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

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	Comparison of the frozen data set to the production data showed one change based on a major facility moved to inactive status.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	The SRF metric for determining if minimum data requirements are timely (Metric 3a) showed one change between the frozen data set and production data set. This change was due to a major facility being moved to inactive status.
	Metric(s) and Quantitative Value	3a - Comparison of data sets; frozen data set shows 23 Majors, production data set shows 22 Majors.
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The FY06 SRF review found DMRs were not entered in a timely manner (Tracker item E10). Since the FY06 SRF review, the metric for timely data entry has changed from DMR entry to changes in the frozen and production data set. However, the issue with timely DMR entry remains an outstanding issue. This issue and proposed actions to address are now found in Element 1.

**Element 4 Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e. PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.**

4-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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	Finding	<p>WYDEQ exceeded its commitments for minor source inspections.</p> <p>WYDEQ technically met its CAFO inspection commitments.</p> <p>WYDEQ conducted 17 of its 23 major inspection commitments.</p> <p>WYDEQ did not submit its 2006 or 2007 Annual Non-Major Non Compliance Reports in a timely manner.</p> <p>WYDEQ submitted its enforcement action reports, storm water and SSO reports as required by the FY08 PPA.</p>
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>WYDEQ stated that it actually conducted all its major inspections; however some were conducted a month prior to or after the FY08 fiscal year. WYDEQ indicated it has developed a tracking system to ensure that the major inspections are conducted within the fiscal year.</p> <p>WYDEQ submitted its 2006 and 2007 Annual Non-Major Non Compliance Report on 6/1/09. WYDEQ has committed to submitting future reports on time.</p>
	Metric(s) and Quantitative Value	<p><b>4a</b> - Planned inspections completed. 17/23=74%</p> <p><b>4b</b> - Planned commitments completed. 17/23 inspections completed; Annual Non-Major Non Compliance report for 2006 and 2007 submitted late.</p>
	State Response	<p>“The WPDES program recognizes that the ANCR reports were overdue and has since submitted all ANCR reports. WYDEQ will complete the Annual Non-major Non-compliance report in a timely manner in the future.”</p>
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**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).**

5-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	<p>-WYDEQ conducted 461 inspections at 441 facilities. WY exceeded its minor facility inspection commitment of 20%.</p> <p>-WYDEQ committed to 200 storm water (industrial and construction) inspections; it completed 162 storm water inspections (based on revised data provided by WYDEQ).</p> <p>-WYDEQ committed to inspection 12 CAFO in FY08, but conducted 6 inspections. However, it met its commitment to inspect a CAFO at least once during the life of its permit.</p>
	Explanation. (If Area for State Attention, describe why action not	<p>See comment under 4-1 regarding major facilities.</p> <p>Approximately 11% of the current storm water permit authorizations in Wyoming are for oil and gas operations, and WYDEQ has determined that 68% of the construction disturbed acreage is related to oil and gas development. These operations are not required to obtain storm water permits under federal regulations (unless it can be shown</p>

required, if Area for Improvement, provide recommended action.)	that the discharges from these operations cause or contribute to water quality issues); however they are required to obtain permits under the state regulations.  In addition, WYDEQ has committed additional resources for NPDES inspections of coal bed methane discharges (minor permittees) which is a large and highly contentious permit sector.
Metric(s) and Quantitative Value	5a Inspection coverage – NPDES majors. PDA: 69.6%; State correction in PDA: 72.7% 5b1 - Inspections at non-majors with individual permits. PDA: 18.8%; State correction in PDA: 30.2% 5b2 – Inspections at NPDES non-majors with general permits. PDA: 0.4%; State correction in PDA: 7.1% 5c - NPDES other (not 5a or 5b). PDA: 2.4%; State correction in PDA: 13%. The PDA did not take into account CAFO and SW inspections. The State completed 168 CAFO and SW inspections out of 212 committed to in the PPA, for a percentage of 79%.
State Response	Please see information summarized in the “Explanation” area above. In addition, WYDEQ stated the following: “Inspectors conduct informal inspections of on-the-ground practices while conducting WYPDES permit inspections in the energy fields. These informal inspections are not documented. Wyoming will continue to address storm water inspections as resources allow recognizing higher priorities exist in the energy sector.” Additional State comments are attached to this report in Appendix H.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The FY06 SRF review found that inspection commitments were not fully met (see Tracker item E1). EPA and WYDEQ will negotiate inspection coverage commitments for FY10 to allow WYDEQ the flexibility to address its most pressing environmental concerns while still operating within the guidelines of the Compliance Monitoring Strategy. EPA and WYDEQ will finalize the inspection plan by 10/31/09.

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

6-1	Is this finding a(n) (select one):  <input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	WYDEQ inspections conducted a major facilities do not meet the requirements of CEIs/CSIs.  The WYDEQ inspection checklists for all reports reviewed do not address/cover all permit requirements.
Explanation. (If Area for State Attention, describe why action not required, if Area	WYDEQ inspections at major facilities generally include DMR file reviews and outfall sampling. The inspections do not include a plant walk through and verification of operation and maintenance procedures. WYDEQ has stated that it does not conduct operation and maintenance inspections, and does not have qualified personnel who can conduct these types of inspections. Further, WYDEQ has stated that it has conducted inspections in this fashion for 30 years and has not identified any violations related to operation and maintenance.

for Improvement, provide recommended action.)

EPA’s review of the Memorandum of Agreement between WYDEQ and EPA, dated 11/2/74, finds the following statements related to operation and maintenance and inspections:

- Pg 5 - 3.d: For each permit prepared..., the Division will require that the permittee at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.



		<p>sampling and examination of monitoring records, reports, <i>equipment</i>, and methods. This further supports EPA’s position that a plant walk through and verification of operation and maintenance procedures is required when conducting compliance inspections.</p> <p>Eleven out of 15 inspection reports were found to be incomplete. Missing elements included: type and purpose of the inspection; checklist not completely filled out; and checklist did not include all requirements of the permit. In FY09, WYDEQ revised its CAFO inspection checklist to include all of its permit requirements. The issues identified in the file review of the FY08 CAFO inspection reports were resolved with this new checklist. WYDEQ has indicated it will review its storm water inspection checklist to address similar concerns.</p>
	Metric(s) and Quantitative Value	<p><b>6a</b> – Inspection reports reviewed. 15 inspection reports reviewed.</p> <p><b>6b</b> – Inspection reports reviewed that are complete. <b>27%</b></p> <p><b>6c</b> - Inspection reports reviewed that provide sufficient documentation to determine compliance at the facility. <b>53%</b></p> <p><b>6d</b> – Inspection reports completed within the prescribed time frame. <b>85%</b></p>
	State Response	<p>“Wyoming does not agree with the conclusion that current inspections do not meet the requirements of Compliance Evaluation Inspections (CEI’s). WYDEQ has conducted compliance inspections without operation and maintenance review for 30 years and has not witnessed any pattern of operation and maintenance related noncompliance. Given the State’s limited resources, growing permit universe, and lack of federal funding to meet these increasing demands WYDEQ can see no environmental benefit to this requirement, especially for private sector permits. Effluent violations which occur at public sector facilities often trigger O&amp;M inspections from engineers in the Water Quality Division’s Water/Wastewater section; however, these inspections are not recorded as WYPDES inspections.”</p> <p>Additional State comments are attached to this report in Appendix H.</p>
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>Inspections which do not include a plant walk through and verification of operation and maintenance procedures can not be categorized as a CEI or CSI in PCS.</p> <p>EPA and/or its contractors will conduct inspections at major facilities in FY10 to ensure that the minimum inspection coverage under the Compliance Monitoring Strategy is met. EPA encourages WYDEQ to accompany EPA on these inspections to gain a better understanding of the requirements of a CEI and proper documentation of the activities. EPA will take the lead on any enforcement follow up at the sites for which it conducts the inspection.</p> <p>WYDEQ will update its storm water inspection checklist in FY10 to address the completeness issue. EPA will track progress on this activity during mid year (4/30/10) and end of year (1/31/11) reviews.</p>

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

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	<p>EPA identified one single-event violation at a major facility which was not entered into PCS.</p> <p>Patterns of noncompliance which do not reach the SNC definition do not appear to be reviewed for possible compliance issues.</p>

Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>WYDEQ identified one single-event violation at the Frontier Refinery (WY0000442). It was not entered into PCS as required.</p> <p>The SRF Data Metrics identified 56.5% of the Major facilities with DMR violations. This is slightly higher than the national average of 54.5%. Review of OTIS found two Major facilities with patterns of DMR violations which do not appear to be reviewed for possible compliance issues. The DMR violation findings indicate WYDEQ does not evaluate violation trends (re-occurring violations) unless the Major facility is in SNC for effluent violations in consecutive quarters. This appears to be in conflict with WYDEQ's Enforcement Management System (EMS), revised January 16, 2006, which identifies Letters of Violation for minor or infrequent violations of effluent limits and Notices of Violation or referrals to the Attorney General's office for violations on a continuing basis. Neither facility discussed above was the subject of informal or formal enforcement.</p>
Metric(s) and Quantitative Value	<p>7a1 - Number of single-event violations at active majors. 0/0</p> <p>7a2 - Number of single-event violations at non-majors. 0/0</p> <p>7b - Compliance schedule violations. 0/0</p> <p>7c - Permit schedule violations. 14.3%</p> <p>7d - Percent of major facilities with DMR violations reported to the national database. 56.5%</p> <p>7e - Inspection reports reviewed that led to a compliance determination. <b>66.63%</b></p>
State Response	<p>"The issues identified under this Element appear redundant (same as Elements 1 and Element 2). WYDEQ maintains a complete and accurate record of all permit information and has committed in the PPA to provide reports to EPA on request. WYDEQ does conduct screens for recurring minor DMR violations and has issued NOV's based on these reviews."</p> <p>Additional State comments are attached to this report in Appendix H.</p>
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	<p>WYDEQ has agreed to enter the required data related to Majors in PCS beginning in FY10 (see State comment under Element 1). This will include single event violations at Major facilities. EPA will provide training in FY10 including the entry of single event violations into PCS. EPA will monitor WYDEQ progress during midyear (4/30/10) and end of year (1/31/11) reviews.</p> <p>In FY10 WYDEQ must implement its EMS with regards to patterns of violation identified through DMR reviews. EPA will conduct targeted reviews of the OTIS data during FY10 to determine if the EMS is being followed. EPA will discuss the findings of its review with WYDEQ during midyear (4/30/10) and end of year (1/31/11) reviews.</p>

<b>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.</b>	
8-1	<p>Is this finding a(n) (select one):</p> <p><input type="checkbox"/> Good Practice</p> <p><input type="checkbox"/> Meets SRF Program Requirements</p> <p><input type="checkbox"/> Area for State Attention</p> <p><input checked="" type="checkbox"/> Area for State Improvement – Recommendations Required</p>
Finding	<p>One facility was identified as SNC for DMR nonreceipt when the DMRs had been received but not entered into PCS.</p> <p>Single event violations and subsequent SNC determinations are not tracked in PCS.</p>
Explanation. (If Area for State Attention, describe why action not required, if Area	<p>Union Pacific Railroad was identified in SNC for the last quarter of FY08 for DMR nonreceipt. The DMRs had been received and were entered into the internal State database, but this information was not entered into PCS. This erroneously identified the facility in SNC. WYDEQ indicated that the DMRs were lost in the transfer from the internal database entry to the PCS data entry person. This information has since been found and properly entered into PCS.</p>

for Improvement, provide recommended action.)	The file review found that WYDEQ determined that Frontier Refining was in SNC for discharging without a permit; however this single event violation and SNC determination was not entered into PCS.
Metric(s) and Quantitative Value	8a1 - Active major facilities in SNC during reporting year. 2 8a2 - Percent of active major facilities in SNC during the reporting year. 8.7% <b>8b</b> Verify that facilities with an SEV were accurately determined to be SNC or non-SNC. <b>0/0</b> <b>8c</b> – Verify that SEVs that are SNC are timely reported. <b>0/0</b>
State Response	See WYDEQ comments under Element 1 Additional State comments are attached to this report in Appendix H.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	The FY06 SRF review identified an issue with linking violations to enforcement actions (Tracker item E11). WYDEQ has agreed to provide staff and resources to ensure that requirements for all major permits will be maintained in PCS starting in FY10. EPA will provide training in FY10 including the entry of single event violations into PCS. EPA will monitor WYDEQ progress during midyear (4/30/10) and end of year (1/31/11) reviews.

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

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	One out of five enforcement actions reviewed did not include appropriate injunctive relief to bring the facility back into compliance.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	<p>One of the five enforcement actions reviewed was related to a facility in SNC. This action did not bring the facility back into compliance. However, the facility in questions had numerous violations that were still under review by the State at the time of the FY08 SRF Review. These violations have since been addressed through another program (Solid and Hazardous Waste Division).</p> <p>Of the remaining four enforcement actions reviewed, three required injunctive relief to bring the facilities back into compliance. All three included appropriate injunctive relief.</p>
	Metric(s) and Quantitative Value	<b>9a</b> – Enforcement responses reviewed. <b>5 facility files reviewed, one related to SNC violations.</b> <b>9b</b> – Responses that have returned or will return a source in SNC to compliance. <b>0/1</b> <b>9c</b> – Responses that have returned or will return sources with non-SNC violations to compliance. <b>100%</b>
	State Response	“Corrective action for the cited enforcement action is addressed in an Administrative Order through the Solid and Hazardous Waste Division.” Additional State comments are attached to this report in Appendix H.

Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	None
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**Element 10 Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement action in accordance with policy relating to specific media.**

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	WYDEQ appears to take the appropriate enforcement action in a timely manner.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	EPA reviewed five enforcement actions and found that all actions were taken in a timely manner and were appropriate.
	Metric(s) and Quantitative Value	<b>10b</b> - Enforcement responses reviewed that address SNC in a timely manner. <b>100%</b> <b>10c</b> – Enforcement actions reviewed that address SNC that are appropriate to the violations. <b>100%</b> <b>10d</b> – Enforcement responses reviewed that appropriately address non-SNC violations. <b>100%</b>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**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 BEN model or other method that produces results consistent with national policy.**

11-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	In FY08, WYDEQ has documented how it determines gravity and economic benefit.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	EPA reviewed four penalty actions and found that all adequately documented initial penalty calculations. Two of the four included both appropriate gravity and economic benefit of noncompliance, two included appropriate gravity but did not include appropriate economic benefit of noncompliance.
	Metric(s) and Quantitative Value	<b>11a</b> – Penalty calculations reviewed that consider and include where appropriate gravity and economic benefit. <b>75%</b>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

12-1	Is this finding a(n) (select one):	<input checked="" type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	WYDEQ documents initial and final penalty calculations and tracks penalty collection.
	Explanation. (If Area for State Attention, describe why action not required, if Area for Improvement, provide recommended action.)	In FY08, WYDEQ improved its internal documentation on the differences between initial and final penalties assessed as well as documentation of penalty collection. This confidential documentation is manually tracked and updated monthly.
	Metric(s) and Quantitative Value	<b>12a</b> – Document the rationale for differences between the initial proposed penalty amount and final assessed penalty that was collected. <b>100%</b> <b>12b</b> – Penalties collected. <b>100%</b>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

## RCRA Program

Review elements where SRF program requirements are being met with no issues identified are:

- Element 1 - Data Completeness
- Element 4 - Completion of Commitments
- Element 7 - Identification of Alleged Violations
- Element 8 - Identification of SNC and HPV
- Element 9 - Enforcement actions promote return to compliance
- Element 11 - Penalty calculation method
- Element 12 - Final penalty assessment and collection

Review element findings are as follows:

Element 1 Data Completeness. Degree to which the Minimum Data Requirements are complete.		
1-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	WDEQ's RCRA data is complete. Of 32 files reviewed, all of the inspection and enforcement information was accurately entered.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	1a - site universe counts 1b - inspection counts 1c - violation counts 1d - informal action counts 1e - SNC counts 1f - Formal action counts 1g - Assessed penalty counts <b>All appear acceptable with little deviation from national database.</b>
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that	No action required.

address this issue.)	
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**Element 2 Data Accuracy. Degree to which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.).**

2-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	WDEQ is continuing to clean up the data base to reflect the current compliance status for its facilities.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	The SNC determination data is acceptable and is accurately entered. The state has acknowledged and continues to work to enter return-to-compliance dates for its longstanding secondary violators.
	Metric(s) and Quantitative Value	2b -- # of sites in violation for more than 240 days. National database shows 72; State database shows 29
	State Response	WDEQ agrees this is an area that needs improvement. Additional State comments are attached to this report in Appendix H.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	WDEQ has committed to work to clean up the data base for its longstanding secondary violators which have had outstanding violations for greater than 240 days.



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

3-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	The state enters its data in a timely fashion except for entry of the SNC data, 40% of which is entered 60 days past the date of SNC identification.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	The state should make its best efforts to ensure that SNC data is entered within 60 days from SNC identification.
	Metric(s) and Quantitative Value	3a—timely entry of SNC data = 60%
	State Response	The state agrees that its staff need to be more timely in getting these dates entered into RCRAInfo. Additional State comments are attached to this report in Appendix H.
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 4 Completion of Commitments. Degree to which all enforcement/compliance commitments in relevant agreements (i.e. PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed.**

4-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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	Finding	The state submits its inspection schedule, PPA language, and provides copies of documents as requested or required by its agreements with EPA.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	4a - planned inspections complete = 100% 4b - planned commitments complete = 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**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).**

5-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	The state continues to conduct inspections each year at greater than 20% of its LQG coverage but does not achieve 100% coverage on a 5-year basis.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	Targeting fails to achieve 100% LQG coverage on a 5-year basis. The state may need to shift inspection focus from CESQGs to LQGs to ensure 100% LQG inspection coverage.
	Metric(s) and	5c—5-year inspection coverage of LQGs. 83.3%

Quantitative Value	
State Response	WDEQ has continued the effort to focus on identification/inspection of remaining LQGs since many such generators have closed or reverted to SQG or CESQG, resulting in its inspection percentage in this category being a “lagging indicator” of actual LQG coverage. Additional State comments are attached to this report in Appendix H.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	Refinement of the RCRA LQG universe is an ongoing task, due to episodic generators, one-time generators, and facilities wishing to retain LQG status as a protective filing. The state will refine the universe and make continued efforts to inspect 100% of their LQGs.

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

6-1	Is this finding a(n) (select one): <input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	The state inspection reports properly document observations and include accurate descriptions of observations; however, 7 of the 32 reports were not timely.
Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	The state researched the issue and determined that 4 of the 7 reports required the submission of additional information from the parties inspected. The state also suggested that some of the delay may be due to complexity and size of the sites inspected. The state should make every effort to ensure that inspection reports are completed in a timely fashion.
Metric(s) and Quantitative Value	6c—Inspection reports completed within a determined time frame. 78%
State Response	The state would like additional time for completion of inspection reports at larger facilities or for inspections requiring sampling. Additional State comments are attached to this report in Appendix H.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

7-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	The state accurately identifies violations in their inspection reports and enters these in the national database.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	7b—timely reporting of violations = 100% 7c—violations found during inspections = 48.4%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 8 Identification of SNC and HPV. Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner.**

8-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	The state exceeds the national average and meets the national goal for timely SNC determinations.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	8a—SNC identification rate = 1.1% (Note this is less than the National Goal but is viewed as a minor issue, since the state makes appropriate and timely SNC determinations based on reviews of inspection and enforcement files.) 8b—timely SNC determinations (150 days of day 0) = 100% 8c—SNC reporting indicator (% of formal actions at SNC facilities) = 46.2% 8d—identification of SNC and HPV = 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

9-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
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	Finding	The state requires corrective measures in their formal and informal actions to return facilities to compliance and follows up through required submittals or onsite inspections.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	9b—enforcement responses that have returned or will return a source in SNC to compliance. = 100% 9c—enforcement responses that have or will return Secondary Violators to compliance. = 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**Element 10 Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement action in accordance with policy relating to specific media.**

10-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input type="checkbox"/> Meets SRF Program Requirements <input checked="" type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	For five of the thirty-two files reviewed, some type of action should have been taken to address the identified violations.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	The state should ensure that identified violations are properly addressed. Note these appear to be secondary violators.

Metric(s) and Quantitative Value	10c—enforcement responses reviewed that are taken in a timely manner. 95% 10d—enforcement actions reviewed that address SNC and SVs that are appropriate to the violations. 84%
State Response	The state has provided the following response to this finding: “A significant component of enforcement actions involve physical presence at the site and/or face to face interactions with responsible parties which EPA’s 3 <sup>rd</sup> party review cannot incorporate. This can lead to understandable disagreements in enforcement response evaluations.” Additional State comments are attached to this report in Appendix H.
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**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 BEN model or other method that produces results consistent with national policy.**

11-1	Is this finding a(n) (select one): <input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
Finding	The state includes both economic benefit and gravity components in their penalty calculations and documents adjustment of the initial penalty to the settled amount.
Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
Metric(s) and Quantitative Value	11a- penalty calculations consider and include appropriate gravity and economic benefit = 100%
State Response	
Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

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

12-1	Is this finding a(n) (select one):	<input type="checkbox"/> Good Practice <input checked="" type="checkbox"/> Meets SRF Program Requirements <input type="checkbox"/> Area for State Attention <input type="checkbox"/> Area for State Improvement – Recommendations Required
	Finding	The state documents the adjustments made to reduce the initial penalty to the final penalty amount. The state maintains documentation in its files that the final penalty has been collected or SEP projects completed.
	Explanation. (If Area for State Attention,, describe why action not required, if Area for Improvement,, provide recommended action.)	
	Metric(s) and Quantitative Value	12a - files document difference and rationale between the initial and final assessed penalty = 100% 12b - files document collection of penalty = 100%
	State Response	
	Action(s) (Include any uncompleted actions from Round 1 that address this issue.)	

**V. Element 13 Submission**

There is no Element 13 submission from Wyoming.



## **APPENDIX A: STATUS OF RECOMMENDATIONS FROM PREVIOUS REVIEWS**

During the first SRF review of Wyoming’s compliance and enforcement programs, Region 8 and Wyoming identified a number of actions to be taken to address issues found during the review. The table below shows the status of progress toward completing those actions.

State	Status	Due Date	Media	Title	Finding	Element
WY	- Complet	9/29/2008	RCRA	Inspection of 100% of LQG universe on 5-year cycle and enhancement of SQG inspection coverage.	WDEQ falls below the national goal of achieving 100% LQG coverage every five years. There is a discrepancy between the LQG universe in the OTIS drilldown report and the list of LQG facilities produced by state staff from RCRAInfo and review of the Biennial Reporting System. The state has inspected approximately 29.7% of its SQG universe in the past five fiscal years.	Insp Universe
Round 1	ed					
Total:						
□C0						
WY	- Complet	9/29/2008	RCRA	Timely completion of inspection reports.	Some of the inspection reports exceeded the prescribed time frame for completion	Violations ID'ed Timely
Round 1	ed					
Total:						
□C0						
WY	- Complet	9/29/2008	RCRA	Appropriate penalty assessment in formal actions.	None of the state’s formal enforcement actions met the enforcement responsiveness criteria for appropriateness because no penalties were assessed or collected for any of the NOVs issued.	Timely & Appropriate Actions
Round 1	ed					
Total:						
□C0						
WY	- Working	9/30/2009	RCRA	Accuracy of Minimum Data Requirements	The national data bases reflect that the state has 78 sites in violation for greater than 3 years. Many of these are residual data remnants from EPA-lead inspections prior to Wyoming’s authorization in October 1995. Appropriate follow-up action to	Data Accurate
Round 1						
Total:						
□C0						

close these outstanding violations will be taken by the responsible agency.

WY Round 1	- Working	9/30/2009	CWA	Ensure inspection commitments are met and entered into PCS.	The inspection commitment for storm water was not met.	Insp Universe
Total:						
□ C0						
WY Round 1	- Complet ed	9/29/2008	CWA	Improve inspection completeness.	Of the 25 inspection reports reviewed via file review and oversight inspection, 14 were found to be incomplete by reviewers. The largest problem appears to be inadequate file reviews, particularly for storm water inspections, of which 8 of 12 were found to be incomplete.	Violations ID'ed Appropriately
Total:						
□ C0						
WY Round 1	- Complet ed	9/29/2008	CWA	Inspection reports should be dated upon completion.	Of the 25 inspection reports reviewed via file review and oversight inspections, 4 did not have a clear notation of the date the report was completed.	Violations ID'ed Timely
Total:						
□ C0						
WY Round 1	- Complet ed	9/29/2008	CWA	DMRs for Majors should be entered into the database on time.	SNC definitions for areas such as storm water and CAFOs have not yet been developed. The data metrics identify 2 majors as having SNC violations for overdue DMRs. However, these DMRs were submitted, but were entered into the data base late.	SNC Accuracy
Total:						
□ C0						
WY Round 1	- Working	9/30/2009	CWA	Improve on the timeliness of enforcement and document violation discovery.	Of the 10 formal actions reviewed, all were determined to be appropriate, and four were determined to be timely. For two actions, reviewers could not determine when the violation was identified to determine timeliness.	Timely & Appropriate Actions
Total:						
□ C0						
WY Round 1	- Complet ed	9/29/2008	CWA	Improve penalty appropriateness and documentation.	Of the eight penalty calculations reviewed, 6 included an appropriate gravity and economic benefit. The remaining two included appropriate gravity calculations, but not economic	Penalty Calculations
Total:						

□C0					benefit.	
WY Round 1	- Working	9/30/2009	CWA	Collect appropriate penalties.	Of the 8 penalties reviewed, four collected appropriate economic benefit and gravity as determined using EPA's Interim Clean Water Act Settlement Penalty Policy.	Penalties Collected
Total:						
□C0						
WY Round 1	- Completed	9/29/2008	CWA	Improve completion of PPA deliverables.	Not all PPA deliverables were completed on time.	Grant Commitments
Total:						
□C0						
WY Round 1	- Working	9/30/2009	CWA	Improve the timeliness of data entry	Twenty two of the forty seven DMRs reviewed had dates of data entry (and thirty nine were initialed) and, of those, about half (22) were entered in a timely manner. Only one of the thirty four inspection reports reviewed had dates of data entry (and four were initialed) and, therefore, the reviewer was unable to determine if the State is meeting the standard for timelessness for inspection reports entered into PCS.	Data Timely
Total:						
□C0						
WY Round 1	- Working	9/30/2009	CWA	Improve the number of enforcement actions linked to violations.	None of the eight enforcement actions are linked to violations in PCS.	Data Accurate
Total:						
□C0						
WY Round 1	- Completed	9/30/2009	CWA	Enter enforcement actions for majors and minors into ICIS.	WPDES does not enter enforcement actions into PCS.	Data Complete
Total:						
□C0						
WY Round 1	- Completed	9/29/2008	CAA	Ensure that the State CMS Plan is	The State CMS Plan is not accurately reflected in the AFS with	Insp Universe

Round 1	ed				accurately reflected in the AFS correct evaluation frequencies cited.	
Total:					with correct evaluation frequencies	
<input type="checkbox"/> C0					cited.	
WY	-	Comple	9/29/2008	CAA	Ensure that all majors received an FCE and an on-site visit at least once every 5 years.	Insp Universe
Round 1	ed				The CMS specifies a group of sources which are not routinely inspected. If any of these sources are Class A major, they should receive an on-site full compliance evaluation at least every 5 years.	
Total:						
<input type="checkbox"/> C0						
WY	-	Comple	9/29/2008	CAA	Provide penalty calculation information and documentation. Discuss during periodic State/EPA HPV meetings.	Penalty Calculations
Round 1	ed				EPA does not receive information on the amount of penalty proposed to the company as calculated by the State's policies. It is unknown which portion of the collected penalty as recorded in the consent decree is for economic benefit and what is for gravity.	
Total:						
<input type="checkbox"/> C0						
WY	-	Long	9/30/2009	CAA	Report stack test data to AFS.	Data Accurate
Round 1	Term				The Division does not enter stack test data into the AFS. As part of the EPA's CMS, stack test information is required, as a component of the Minimum Data Requirements, to be tracked and entered into the AFS database.	
Total:	Resolutio					
<input type="checkbox"/> C0	n					

## APPENDIX B: OFFICIAL DATA PULL

### OTIS State Review Framework Results, CAA Data for Wyoming (Review Period Ending: FY08)

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Count	Universe	Not Counted
	1. Data completeness. degree to which the minimum data requirements are complete.								
	Title V Universe: AFS Operating Majors (Current)	Data Quality	State				201	NA	NA
	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined				203	NA	NA
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State				160	NA	NA
A	Title V Universe: AFS Operating Majors with Air Program Code = V (Current) Source Count: Synthetic Minors (Current)	Data Quality	Combined				162	NA	NA
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current) Source Count: Synthetic Minors (Current)	Data Quality	State				32	NA	NA
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current) Source Count: Synthetic Minors (Current)	Data Quality	Combined				32	NA	NA
	NESHAP Minors (Current)	Data Quality	State				3	NA	NA

	Source Count: NESHAP Minors (Current)	Data Quality	Combined	3	NA	NA	NA
	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	State	445	NA	NA	NA
B	Source Count: Active Minor facilities or otherwise FedRep, not including NESHAP Part 61 (Current)	Informational Only	Combined	445	NA	NA	NA
	CAA Subprogram Designations: NSPS (Current)	Data Quality	State	94	NA	NA	NA
	CAA Subprogram Designations: NSPS (Current)	Data Quality	Combined	95	NA	NA	NA
	CAA Subprogram Designations: NESHAP (Current)	Data Quality	State	8	NA	NA	NA
	CAA Subprogram Designations: NESHAP (Current)	Data Quality	Combined	9	NA	NA	NA
	CAA Subprogram Designations: MACT (Current)	Data Quality	State	51	NA	NA	NA
	CAA Subprogram Designations: MACT (Current)	Data Quality	Combined	52	NA	NA	NA

	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	73.4%	0 / 0	0	0	0
	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	32.4%	0 / 0	0	0	0
	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	88.9%	0 / 0	0	0	0
C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	86.2%	50.0%	1	2	1
	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State				34	NA	NA
	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State				35	NA	NA
D	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State				4	NA	NA
	Historical Non-Compliance Counts (1 FY)	Data Quality	State				13	NA	NA
E	Historical Non-Compliance Counts (1 FY) Informal Enforcement Actions: Number Issued	Data Quality	Combined				16	NA	NA
		Data Quality	State				16	NA	NA

(1 FY)

	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State				16	NA	NA	NA
F	HPV: Number of New Pathways (1 FY)	Data Quality	State				10	NA	NA	NA
	HPV: Number of New Sources (1 FY)	Data Quality	State				10	NA	NA	NA
G	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	53.7%	90.0%		9	10	1
	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	64.9%	0.0%		0	10	10
	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV	Data Quality	State	100%	65.3%	0.0%		0	10	10
H	Violation Type Code(s) Formal Action: Number Issued (1 FY)	Data Quality	State				32	NA	NA	NA
	Formal Action: Number of Sources (1 FY) Assessed	Data Quality	State				26	NA	NA	NA
	Penalties: Total Dollar Amount (1 FY)	Data Quality	State				\$852,185	NA	NA	NA
J	Major Sources Missing CMS Policy Applicability (Current)	Review Indicator	State	0			1	NA	NA	NA

2. Data accuracy. degree to which the minimum data requirements are accurate.



	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.3%	200.0%	8	4	NA
A	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	58.3%	114.3%	8	7	NA
	Stack Test Results at Federally-Reportable Sources - % Without Pass/Fail Results (1 FY)	Goal	State	0%	1.5%	0.0%	0	19	19
B	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State				2	NA	NA
	3. Timeliness of data entry. degree to which the minimum data requirements are complete.								
A	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	37.7%	60.0%	6	10	4
	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	64.6%	83.9%	151	180	29
B	Percent Enforcement related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	74.9%	97.7%	42	43	1

	Comparison of Frozen Data Set	Available after December 2008							
C	5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.								
	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	58.5%	17.7%	28	158	130
	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	58.7%	18.2%	29	159	130
	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	81.3%	54.0%	109	202	93
A	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY) CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	100%	81.8%	53.9%	110	204	94
	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	State	20% - 100%	68.0%	46.4%	13	28	15
	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (5 FY CMS Cycle)	Review Indicator	Combined	20% - 100%	68.4%	46.4%	13	28	15

	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	State	100%	100.0%	100.0%	5	5	0
B	CAA Synthetic Minor 80% Sources (SM-80) FCE Coverage (last full 5 FY)	Informational Only	Combined		100.0%	100.0%	5	5	0
	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	State		81.2%	84.8%	28	33	5
C	CAA Synthetic Minor FCE and reported PCE Coverage (last 5 FY)	Informational Only	Combined		81.5%	84.8%	28	33	5
D	CAA Minor FCE and Reported PCE Coverage (last 5 FY)	Informational Only	State		30.4%	36.4%	332	912	580
	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State				17	NA	NA
E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined				17	NA	NA
F	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State				0	NA	NA
G	Review of Self-Certifications Completed (1 FY)	Goal	State	100%	93.0%	100.0%	124	124	0

7. Identification of alleged violations. degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information.

	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.5%	9.4%	5	53	48
	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.7%	0.0%	0	2	2
	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0 / 0	0	0	0
8. Identification of SNC and HPV. degree to which the state accurately identifies significant noncompliance & high priority violations and enters information into the national system in a timely manner.									
	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	State	> 1/2 National Avg	7.5%	5.0%	10	201	191
	High Priority Violation Discovery Rate - Per Major Source (1 FY)	Review Indicator	EPA		0.5%	0.0%	0	201	201
	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	State	> 1/2 National Avg	0.7%	0.0%	0	32	32
	High Priority Violation Discovery Rate - Per Synthetic Minor Source (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0.0%	0	32	32
	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.2%	70.6%	12	17	5

D	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	41.1%	11.1%	1	9	8
E	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	24.4%	0.0%	0	2	2
appropriate enforcement actions in accordance with policy relating to specific media.									
A	Percent HPVs not meeting timeliness goals (2 FY)	Review Indicator	State		39.5%	5.0%	1	20	19
12. Final penalty assessment and collection. Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.									
A	No Activity Indicator - Actions with Penalties (1 FY)	Review Indicator	State				24	NA	NA
B	Percent Actions at HPVs With Penalty (1 FY)	Review Indicator	State	>= 80%	86.3%	100.0%	9	9	0

**OTIS State Review Framework Results, CWA Data for Wyoming (Review Period Ending: FY08)**

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Count	Universe	Not Counted
1. Data completeness. degree to which the minimum data requirements are complete.									
	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined				23	NA	NA

	Active facility universe: NPDES major general permits (Current)	Data Quality	Combined			0	NA	NA	NA
	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,246	NA	NA	NA
A	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			267	NA	NA	NA
	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥95%	50.1%	56.5%	13	23	10
	Major individual permits: DMR entry rate based on MRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥95%	0 / 0	0 / 0	0	0	0
	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥95%	0 / 0	0 / 0	0	0	0
B	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%	0	2	2
	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			1.1%	14	1,246	1,232
	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0
C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined			0 / 0	0	0	0
	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined			2.1%	26	1,246	1,220

	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined	0 / 0	0	0	0
D	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined	526	NA	NA	NA
	Informal actions: number of major facilities (1 FY)	Data Quality	State	1	NA	NA	NA
	Informal actions: number of major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Informal actions: number of actions at major facilities (1 FY)	Data Quality	State	1	NA	NA	NA
	Informal actions: number of actions at major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Informal actions: number of non-major facilities (1 FY)	Data Quality	State	23	NA	NA	NA
	Informal actions: number of non-major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	State	23	NA	NA	NA
E	Informal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Formal actions: number of major facilities (1 FY)	Data Quality	State	0	NA	NA	NA
	Formal actions: number of major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State	0	NA	NA	NA
	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA	0	NA	NA	NA

	Formal actions: number of non-major facilities (1 FY)	Data Quality	State		0	NA	NA	NA
	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA		0	NA	NA	NA
	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State		0	NA	NA	NA
F	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA		0	NA	NA	NA
	Penalties: total number of penalties (1 FY)	Data Quality	State		0	NA	NA	NA
	Penalties: total number of penalties (1 FY)	Data Quality	EPA		0	NA	NA	NA
	Penalties: total penalties (1 FY)	Data Quality	State		\$0	NA	NA	NA
	Penalties: total penalties (1 FY)	Data Quality	EPA		\$0	NA	NA	NA
	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	State		\$0	NA	NA	NA
	Penalties: total collected pursuant to civil judicial actions (3 FY)	Data Quality	EPA		\$0	NA	NA	NA
	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State		\$0	NA	NA	NA
	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA		\$0	NA	NA	NA
	No activity indicator - total number of penalties (1 FY)	Data Quality	State		\$0	NA	NA	NA
G	No activity indicator - total number of penalties (1 FY)	Data Quality	EPA		\$0	NA	NA	NA
<b>2. Data accuracy. degree to which the minimum data requirements are accurate.</b>								
	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥80%	0 / 0	0	0	0



	Actions linked to violations: major facilities (1 FY)	Data Quality	EPA	≥80%	0 / 0	0	0	0	
	3. Timeliness of data entry. degree to which the minimum data requirements are complete.								
	Comparison of Frozen Data Set	Available after December 2008							
	5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.								
	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	56.4%	69.6%	16	23	7
	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.9%	8.7%	2	23	21
A	Inspection coverage: NPDES majors (1 FY)	Goal	Combined	100%	59.3%	73.9%	17	23	6
	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	State			18.8%	234	1,246	1,012
	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	EPA			0.2%	2	1,246	1,244
	Inspection coverage: NPDES non-major individual permits (1 FY)	Goal	Combined			18.9%	236	1,246	1,010
	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	State			0.4%	1	267	266
	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	EPA			0.0%	0	267	267
B	Inspection coverage: NPDES non-major general permits (1 FY)	Goal	Combined			0.4%	1	267	266
	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	State			2.4%	32	1,341	1,309
	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	EPA			0.1%	1	1,341	1,340
C	Inspection coverage: NPDES other (not 5a or 5b) (1 FY)	Informational Only	Combined			2.4%	32	1,341	1,309

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.

	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	NA	NA	NA
A	Single-event violations at non-majors (1 FY)	Informational Only	Combined			0	NA	NA	NA
B	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined	39.3%	0 / 0		0	0	0
C	Facilities with unresolved permit schedule violations (at end of FY)	Data Quality	Combined	30.4%	14.3%		1	7	6
D	Percentage major facilities with DMR violations (1 FY)	Data Quality	Combined	55.3%	56.5%		13	23	10

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.

	Major facilities in SNC (1 FY)	Review Indicator	Combined			2	NA	NA	NA
A	SNC rate: percent majors in SNC (1 FY)	Review Indicator	Combined	24.4%	8.7%		2	23	21

10. Timely and appropriate action. degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.

A	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	16.8%	0.0%		0	23	23
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**OTIS State Review Framework Results, RCRA Data for Wyoming (Review Period Ending: FY08)**

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Count	Universe	Not Counted	
	1. Data completeness. degree to which the minimum data requirements are complete.									
	Number of operating TSDFs in RCRAInfo	Data Quality	State				2	NA	NA	NA
	Number of active LQGs in RCRAInfo	Data Quality	State				27	NA	NA	NA

	Number of active SQGs in RCRAInfo	Data Quality	State	217	NA	NA	NA
	Number of all other active sites in RCRAInfo	Data Quality	State	662	NA	NA	NA
A	Number of LQGs per latest official biennial report	Data Quality	State	12	NA	NA	NA
	Compliance monitoring: number of inspections (1 FY)	Data Quality	State	198	NA	NA	NA
	Compliance monitoring: number of inspections (1 FY)	Data Quality	EPA	52	NA	NA	NA
	Compliance monitoring: sites inspected (1 FY)	Data Quality	State	186	NA	NA	NA
B	Compliance monitoring: sites inspected (1 FY)	Data Quality	EPA	38	NA	NA	NA
	Number of sites with violations determined at any time (1 FY)	Data Quality	State	163	NA	NA	NA
	Number of sites with violations determined at any time (1 FY)	Data Quality	EPA	69	NA	NA	NA
	Number of sites with violations determined during the FY	Data Quality	State	90	NA	NA	NA
C	Number of sites with violations determined during the FY	Data Quality	EPA	2	NA	NA	NA
	Informal actions: number of sites (1 FY)	Data Quality	State	0	NA	NA	NA
	Informal actions: number of sites (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Informal actions: number of actions (1 FY)	Data Quality	State	0	NA	NA	NA
D	Informal actions: number of actions (1 FY)	Data Quality	EPA	0	NA	NA	NA
	SNC: number of sites with new SNC (1 FY)	Data Quality	State	2	NA	NA	NA
	SNC: number of sites with new SNC (1 FY)	Data Quality	EPA	0	NA	NA	NA

	SNC: Number of sites in SNC (1 FY)	Data Quality	State	11	NA	NA	NA
E	SNC: Number of sites in SNC (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Formal action: number of sites (1 FY)	Data Quality	State	9	NA	NA	NA
	Formal action: number of sites (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Formal action: number taken (1 FY)	Data Quality	State	13	NA	NA	NA
F	Formal action: number taken (1 FY)	Data Quality	EPA	0	NA	NA	NA
	Total amount of final penalties (1 FY)	Data Quality	State	\$312,156	NA	NA	NA
G	Total amount of final penalties (1 FY)	Data Quality	EPA	\$0	NA	NA	NA
<b>2. Data accuracy. degree to which the minimum data requirements are accurate.</b>							
	Number of sites SNC-determined on day of formal action (1 FY)	Data Quality	State	2	NA	NA	NA
A	Number of sites SNC-determined within one week of formal action (1 FY)	Data Quality	State	0	NA	NA	NA
	Number of sites in violation for greater than 240 days	Data Quality	State	72	NA	NA	NA
B	Number of sites in violation for greater than 240 days	Data Quality	EPA	57	NA	NA	NA
<b>3. Timeliness of data entry. degree to which the minimum data requirements are complete.</b>							
	Percent SNCs entered &ge; 60 days after designation (1 FY)	Review Indicator	State	60.0%	3	5	2
A	Percent SNCs entered &ge; 60 days after designation (1 FY)	Review Indicator Available after	EPA	0 / 0	0	0	0
B	Comparison of Frozen Data Set	December 2008					

5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.									
	Inspection coverage for operating TSDFs (2 FYs)	Goal	State	100%	87.7%	100.0%	2	2	0
A	Inspection coverage for operating TSDFs (2 FYs)	Goal	Combined	100%	92.1%	100.0%	2	2	0
	Inspection coverage for LQGs (1 FY)	Goal	State	20%	23.0%	58.3%	7	12	5
B	Inspection coverage for LQGs (1 FY)	Goal	Combined	20%	25.4%	58.3%	7	12	5
	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	67.7%	75.0%	9	12	3
C	Inspection coverage for LQGs (5 FYs)	Goal	Combined	100%	73.1%	83.3%	10	12	2
	Inspection coverage for active SQGs (5 FYs)	Informational Only	State			20.3%	44	217	173
D	Inspection coverage for active SQGs (5 FYs)	Informational Only	Combined			21.2%	46	217	171
	Inspections at active CESQGs (5 FYs)	Informational Only	State			125	NA	NA	NA
	Inspections at active CESQGs (5 FYs)	Informational Only	Combined			138	NA	NA	NA
	Inspections at active transporters (5 FYs)	Informational Only	State			23	NA	NA	NA
	Inspections at active transporters (5 FYs)	Informational Only	Combined			27	NA	NA	NA
	Inspections at non-notifiers (5 FYs)	Informational Only	State			17	NA	NA	NA
	Inspections at non-notifiers (5 FYs)	Informational Only	Combined			20	NA	NA	NA
	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	State			15	NA	NA	NA
E	Inspections at active sites other than those listed in 5a-d and 5e1-5e3 (5 FYs)	Informational Only	Combined			16	NA	NA	NA

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.									
	Violation identification rate at sites with inspections (1 FY)	Review Indicator	State		48.4%		90	186	96
C	Violation identification rate at sites with inspections (1 FY)	Review Indicator	EPA		5.3%		2	38	36
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.									
	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	1.1%	2	186	184
A	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3%	0.9%	2	222	220
B	Percent of SNC determinations made within 150 days (1 FY)	Goal	State	100%	79.0%	100.0%	3	3	0
	Percent of formal actions taken that received a prior SNC listing (1 FY)	Review Indicator	State	1/2 National Avg	58.7%	46.2%	6	13	7
C	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
10. Timely and appropriate action. degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.									
	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	State	80%	23.3%	50.0%	1	2	1
A	Percent of SNCs with formal action/referral taken within 360 days (1 FY)	Review Indicator	Combined	80%	21.8%	50.0%	1	2	1
B	No activity indicator - number of formal actions (1 FY)	Review Indicator	State				13	NA	NA
12. Final penalty assessment and collection. degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected.									
A	No activity indicator - penalties (1 FY)	Review Indicator	State			\$312,156	NA	NA	NA
	Percent of final formal actions with penalty (1 FY)	Review Indicator	State	1/2 National Avg	79.3%	50.0%	1	2	1

B	Percent of final formal actions with penalty (1 FY)	Review Indicator	Combined	1/2 National Avg	78.5%	50.0%	1	2	1
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## **APPENDIX C: PDA TRANSMITTAL LETTER**

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

Region 8 reviewers transmitted the results of the Preliminary Data Analysis to the State via email. The email did not include any discussion of the analysis itself. Explanations concerning the PDA initial findings and identification of any areas that the data review suggests needed further examination and discussion were addressed through discussions with the State staff during phone calls.



# APPENDIX D: PRELIMINARY DATA ANALYSIS CHART

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

The PDA reviews each data metric and evaluates state performance against the national goal or average, if appropriate. The PDA Chart in this section of the SRF report only includes metrics where potential concerns are identified or potential areas of exemplary performance. The full PDA Worksheet (Appendix E) contains every metric: positive, neutral or negative. Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis of further investigation that takes place during the file review and through dialogue with the state. Final Findings are developed only after evaluating them against the file review 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.

## Clean Air Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Evaluation (Preliminary)	Initial Findings
1. Data completeness. degree to which the minimum data requirements are complete.								
	Title V Universe: AFS Operating Majors (Current)	Data Quality	State			201	Minor Issue	The State Data source list and AFS Source list should be audited for Title V sources
	Title V Universe: AFS Operating Majors (Current)	Data Quality	Combined			203		
	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	State			160	Minor Issue	The State Data source list and AFS Source list should be audited for Title V sources
A	Title V Universe: AFS Operating Majors with Air Program Code = V (Current)	Data Quality	Combined			162		

	Source Count: NESHAP Minors (Current)	Data Quality	State				3	Minor Issue	Confirm or correct NESHAP minor for 56-013-00022, 56-013-00033, 56-013-00034
	Source Count: NESHAP Minors (Current)	Data Quality	Combined				3		
	CAA Subpart Designations: Percent NSPS facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	73.4%	0 / 0		Inconclusive	Data Quality Error: both count and universe should not be zeros
	CAA Subpart Designations: Percent NESHAP facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	32.4%	0 / 0		Inconclusive	Data Quality Error: both count and universe should not be zeros
	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	State	100%	88.9%	0 / 0		Inconclusive	Data Quality Error: both count and universe should not be zeros
C	CAA Subpart Designations: Percent MACT facilities with FCEs conducted after 10/1/2005	Data Quality	Combined	100%	86.2%	50.0%			
	Compliance Monitoring: Sources with FCEs (1 FY)	Data Quality	State				34	Potential Concern	CMS FY2008 plans 291 FCE, 34 count is low
	Compliance Monitoring: Number of FCEs (1 FY)	Data Quality	State				35	Potential Concern	CMS FY2008 plans 9 sources having multiple FCE, difference of only 1 is low
D	Compliance Monitoring: Number of PCEs (1 FY)	Informational Only	State				4	Appears Acceptable	No PCE are planned in the CMS FY2008 Reconcile list with actual current cases including HPVs
	Historical Non-Compliance Counts (1 FY)	Data Quality	State				13	Minor Issue	
E	Historical Non-Compliance Counts (1 FY)	Data Quality	Combined				16		
	Informal Enforcement Actions: Number Issued (1 FY)	Data Quality	State				16	Minor Issue	
F	Informal Enforcement Actions: Number of Sources (1 FY)	Data Quality	State				16	Minor Issue	
	HPV Day Zero Pathway Discovery date: Percent DZs with discovery	Data Quality	State	100%	53.7%	90.0%		Minor Issue	One discovery date missing
	HPV Day Zero Pathway Violating Pollutants: Percent DZs	Data Quality	State	100%	64.9%	0.0%		Potential Concern	Begin entering violation pollutant code
H	HPV Day Zero Pathway Violation Type Code(s): Percent DZs with HPV Violation Type Code(s)	Data Quality	State	100%	65.3%	0.0%		Potential Concern	Begin entering violation type code

2. Data accuracy. degree to which the minimum data requirements are accurate.

	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	State	<= 50%	58.3%	200.0%		Potential Concern	Count in Universe is low, need to enter non-compliance status for non-HPV major violators
A	Number of HPVs/Number of NC Sources (1 FY)	Data Quality	Combined	<= 50%	58.3%	114.3%			
B	Stack Test Results at Federally-Reportable Sources - Number of Failures (1 FY)	Data Quality	State				2	Potential Concern: Supplemental File Review	No record of HPV review for Mt. Cement failed stack test on 11/27/2007

3. Timeliness of data entry. degree to which the minimum data requirements are complete.

A	Percent HPVs Entered <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	37.7%	60.0%	Minor Issue	Below national goal, enter all future dayzeros within 60 days of day zero date
	Percent Compliance Monitoring related MDR actions reported <= 60 Days After Designation, Timely Entry (1 FY)	Goal	State	100%	64.6%	83.9%	Minor Issue	Above national average and approaching national goal: Continue to improve timeliness of monitoring actions

5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.

								N/A: State following Alternative CMS Plan Issue: ensure sources with designated inspection frequencies are flagged as CMS sources
	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	State	100%	58.5%	17.7%	Minor Issue	
	CMS Major Full Compliance Evaluation (FCE) Coverage (2 FY CMS Cycle)	Goal	Combined	100%	58.7%	18.2%		
	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	State	100%	81.3%	54.0%	Minor Issue	Ensure all majors are in AFS database and designated as major Issue: universes 5a1 and 5a2 should be equal count
A	CAA Major Full Compliance Evaluation (FCE) Coverage(most recent 2 FY)	Review Indicator	Combined	100%	81.8%	53.9%		
	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	State			17	Minor Issue	Corrections to Unknowns not showing in refresh yet
E	Number of Sources with Unknown Compliance Status (Current)	Review Indicator	Combined			17		
F	CAA Stationary Source Investigations (last 5 FY)	Informational Only	State			0	N/A	

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.

	Percent facilities in noncompliance that have had an FCE, stack test, or enforcement (1 FY)	Review Indicator	State	> 1/2 National Avg	21.5%	9.4%	Minor Issue	Corrections not showing in refresh yet
	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	State	> 1/2 National Avg	44.7%	0.0%	Potential Concern: Supplemental File Review	Review failed stack tests for potential enforcement
C	Percent facilities that have had a failed stack test and have noncompliance status (1 FY)	Review Indicator	EPA	> 1/2 National Avg	0.0%	0 / 0		
C	Percent Formal Actions With Prior HPV - Majors (1 FY)	Review Indicator	State	> 1/2 National Avg	74.2%	70.6%	Potential Concern: Supplemental File Review	Review 5 formal actions for HPV potential
D	Percent Informal Enforcement Actions Without Prior HPV - Majors (1 FY)	Review Indicator	State	< 1/2 National Avg	41.1%	11.1%	Potential Concern: Supplemental File Review	Review 8 formal actions for HPV potential

E	Percentage of Sources with Failed Stack Test Actions that received HPV listing - Majors and Synthetic Minors (2 FY)	Review Indicator	State	> 1/2 National Avg	24.4%	0.0%	Potential Concern: Supplemental File Review	Review failed stack tests for HPV potential
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## Clean Water Act

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Evaluation (Preliminary)	Initial Findings
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1. Data completeness. degree to which the minimum data requirements are complete.

	Active facility universe: NPDES major individual permits (Current)	Data Quality	Combined			23	Inconclusive	During the file review, WY should explain why the City of Torrington and SV Cheese are not identified in PCS as majors.
	Active facility universe: NPDES non-major individual permits (Current)	Data Quality	Combined			1,246	Inconclusive	State is not required to enter minor source data into PCS. WY will be requested to demonstrate how they are tracking/monitoring their minor source permittees.
A	Active facility universe: NPDES non-major general permits (Current)	Data Quality	Combined			267	Inconclusive:	State is not required to enter minor source data into PCS. WY will be requested to demonstrate how they are tracking/monitoring their minor source permittees.

	Major individual permits: correctly coded limits (Current)	Goal	Combined	≥95%	50.1%	56.5%	Inconclusive	For the majors identified in the file selection list, the file review will evaluate what permit parameters were entered into the database.
	Major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Goal	Combined	≥95%	0 / 0	0 / 0	Inconclusive	For the majors identified in the file selection list, the file review will evaluate the permit parameters and how they are monitored or recorded for DMRs reporting.
	Major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Goal	Combined	≥95%	0 / 0	0 / 0	Inconclusive	For the majors identified in the file selection list, the file review will evaluate the reporting frequency.
B	Major individual permits: manual RNC/SNC override rate (1 FY)	Data Quality	Combined			0.0%		
	Non-major individual permits: correctly coded limits (Current)	Informational Only	Combined			1.1%	Inconclusive	WY will be requested to demonstrate this database activity during the file review.
	Non-major individual permits: DMR entry rate based on DMRs expected (Forms/Forms) (1 Qtr)	Informational Only	Combined			0 / 0	Inconclusive	A significant number of the WY minor source permits are coal bed methane facilities. WY will be requested to demonstrate how they track facility DMRs.

C	Non-major individual permits: DMR entry rate based on DMRs expected (Permits/Permits) (1 Qtr)	Informational Only	Combined	0 / 0	Inconclusive	WY will be requested to discuss the reasons the DMRs may not have been entered into its database.
	Violations at non-majors: noncompliance rate (1 FY)	Informational Only	Combined	2.1%	Inconclusive	This is information only. As stated above a significant number of minor facilities are coal bed methane. WY will be requested to discuss how they track minor facility exceedances and formal and informal enforcement actions (Letter of Violations (LOVs)).
	Violations at non-majors: noncompliance rate in the annual noncompliance report (ANCR)(1 CY)	Informational Only	Combined	0 / 0	Potential concern	The ANCR is a requirement outlined in 40 CFR § 123.45(c). EPA HQ reports no ANCR for 2006 and 2007; EPA HQ has not yet requested the 2008 ANCR.
D	Violations at non-majors: DMR non-receipt (3 FY)	Informational Only	Combined	526	Inconclusive	This is information only. As stated above a significant number of minor facilities are coal bed methane. WY will be requested to discuss how they track minor facility exceedances.
	Informal actions: number of major facilities (1 FY)	Data Quality	State	1	Appears acceptable	File review will confirm this finding.

	Informal actions: number of major facilities (1 FY)	Data Quality	EPA	0		
	Formal actions: number of major facilities (1 FY)	Data Quality	State	0	Potential concern	This major facility is part of the file review. The review will review why the NOV's were not entered into PCS.
	Formal actions: number of major facilities (1 FY)	Data Quality	EPA	0		
	Formal actions: number of actions at major facilities (1 FY)	Data Quality	State	0	Potential concern	See 1.f.1 above.
	Formal actions: number of actions at major facilities (1 FY)	Data Quality	EPA	0		
	Formal actions: number of non-major facilities (1 FY)	Data Quality	State	0	Inconclusive	Minor source permits are not required to be entered into PCS. However, it is a WENDB requirement to track formal enforcement actions at minor facilities. WY should provide a demonstration of how it tracks this activity.
	Formal actions: number of non-major facilities (1 FY)	Data Quality	EPA	0		
	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	State	0	Inconclusive	Same as E.3 above.
F	Formal actions: number of actions at non-major facilities (1 FY)	Data Quality	EPA	0		
	Penalties: total number of penalties (1 FY)	Data Quality	State	0	Inconclusive	It is a WENDB requirement to track penalties collected at major and minor facilities. WY should discuss the absence of these entries in PCS or provide a demonstration of how it tracks this information.

	Penalties: total number of penalties (1 FY)	Data Quality	EPA		0		
	Penalties: total penalties (1 FY)	Data Quality	State		\$0	Inconclusive	See E.4 above.
	Penalties: total penalties (1 FY)	Data Quality	EPA		\$0		
	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	State		\$0	Inconclusive	See E.4 above.
	Penalties: total collected pursuant to administrative actions (3 FY)	Informational Only	EPA		\$0		
	No activity indicator - total number of penalties (1 FY)	Data Quality	State		\$0	Inconclusive	See E.4 above.

**2. Data accuracy. degree to which the minimum data requirements are accurate.**

	Actions linked to violations: major facilities (1 FY)	Data Quality	State	≥80%	0 / 0	Potential concern	Data should have been entered into PCS.
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**3. Timeliness of data entry. degree to which the minimum data requirements are complete.**

A	Comparison of Frozen Data Set	Available after December 2008					
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**5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.**

	Inspection coverage: NPDES majors (1 FY)	Goal	State	100%	56.4%	69.6%	Potential concern	WY committed to inspect all its major facilities in its FY08 PPA.
	Inspection coverage: NPDES majors (1 FY)	Goal	EPA	100%	5.9%	8.7%		

**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.**

	Single-event violations at majors (1 FY)	Review Indicator	Combined			0	Potential concern	This single-event violation is not linked to the facility in PCS. The file review should include a discussion on how to address data linking.
B	Facilities with unresolved compliance schedule violations (at end of FY)	Data Quality	Combined		39.3%	0 / 0	Potential concern	Compliance schedule for majors should be entered into PCS.

**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.**



	Major facilities in SNC (1 FY)	Review Indicator	Combined				2	Potential concern	WY identified the City of Powell whereas PCS identified Union Pacific in SNC. The file review will discuss this difference.
10. Timely and appropriate action. degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media.									

A	Major facilities without timely action (1 FY)	Goal	Combined	< 2%	16.8%	0.0%		Inconclusive	Various issues identified above will be discussed to determine if WY conducted timely and appropriate enforcement actions.
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## RCRA

Metric	Metric Description	Metric Type	Agency	National Goal	National Average	Wyoming Metric	Evaluation (Preliminary)	Initial Findings
1. Data completeness. degree to which the minimum data requirements are complete.								
	Informal actions: number of sites (1 FY)	Data Quality	State			0	potential concern supplemental file review	6 informal actions and only 9 formal actions were taken, although 90 sites had violations during the FY.
	Informal actions: number of sites (1 FY)	Data Quality	EPA			0	appears acceptable	
	Informal actions: number of actions (1 FY)	Data Quality	State			0	potential concern supplemental file review	6 informal actions and only 9 formal actions were taken, although 90 sites had violations during the FY.
	Number of sites in violation for greater than 240 days	Data Quality	State			72	minor issue	WDEQ needs to clean up data base & enter RTC for prior inspections.
	Number of sites in violation for greater than 240 days	Data Quality	EPA			57	minor issue	EPA needs to clean up data base & enter RTC for prior inspections.
B								
5. Inspection coverage. degree to which state completed the universe of planned inspections/compliance evaluations.								

	Inspection coverage for LQGs (5 FYs)	Goal	State	100%	67.7%	75.0%	potential concern	Targeting fails to achieve 100% LQG coverage on 5-yr basis.
	Inspections at active CESQGs (5 FYs)	Informational Only	State			125	minor issue	State may need to shift inspection focus to ensure 100% LQG coverage.

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.

	SNC identification rate at sites with inspections (1 FY)	Review Indicator	State	1/2 National Avg	3.1%	1.1%	minor issue	below national goal
A	SNC identification rate at sites with evaluations (1 FY)	Review Indicator	Combined	1/2 National Avg	3.3%	0.9%	minor issue	below national goal

## **APPENDIX E: PDA WORKSHEET (with State and EPA Comments)**

See attached Excel file.

## **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](http://www.epa-otis.gov/srf/docs/fileselectionprotocol_10.pdf)) and, typically, 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](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 (where the web-based tool was used).

### **A File Selection Process**

The web-based file selection tool was used to select files for the RCRA program. The CAA and CWA file selection was based on other information since the data in OTIS for those programs is incomplete. File selection lists were provided to the State via e-mail by the program reviewers.

### **CAA File Selection Process**

Files were selected using the SRF standard protocol and a stratified random sample was selected. The total number of sources was calculated yielding a significant sample size, then 4 sources were randomly chosen within each of the 5 Wyoming Districts. Based on this and the file selection protocol, 20 files were selected for review. These include a representative number of major, synthetic minor, and other facilities both with and without violations. No supplemental files were needed.

### **RCRA File Selection Process**

According to the file selection tool, activities occurred during FY08 at 198 facilities. Based on this and the file selection protocol, 25 files were selected for review. An additional 7 supplemental files were selected for a total of 32 files. These include a representative number of TSD, large quantity generator, small quantity generator, and conditionally exempt small quantity generator facilities both with and without violations.

### **CWA File Selection Process**

OTIS does not have the majority of data needed to conduct the WY SRF. Therefore, WY's response to the OTIS SRF Results was used to determine the universe (major and minor inspection, formal enforcement action, and CAFO inspection numbers) and is as follows:

Universe: 605 files (16 major facilities inspected, 583 minor facilities inspected (includes 142 storm water), 55 NOVs, 6 CAFO inspections.



## B. File Selection Table

### CAA File Selection

	SOURCE	SIZE/HPV	PROGRAMS	DISTRICT/INSPECTOR	NATURE OF BUSINESS	AIRS #
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1	Basin Electric – Laramie River	A	PSD, Acid Rain, T5, SPS-D & Y	D1 - Carla Mlinar	Power Plant	56-031- 000001
2	Kinder Morgan – Guernsey	A	T5	D1 - Glen Spangler	Compressor Station	56-031- 000008
3	Antelope Energy- Geode State	B1	SIP	D1 - Thor Nordwick	Production Site	56-027- 000015
4	Schroll Cabinets Inc.	SM	MACT-JJ	D1 - Carla Mlinar	Furniture Manufacturer	56-021- 000010
5	Williams Field Services- Echo	A	MACT-DDDDD,HH, T5, NSPS-GG, Kb, KKK	D2 - Chris Hanify	Sweet Gas Plant	56-007- 000005
6	Arch of Wyoming- Carbon Basin	A	SIP	D2 - Chris Hanify	Surface Coal Mine	56-007- 000064
7	Eighty-Eight Oil- Notches	B1	NSPS-Kb	D2 - Chris Hanify	Crude Oil Receiving Station	56-025- 000829
8	Devon Energy – Baggs/Blue G	SM	SIP	D2 - Jeff Hancock	Compressor Station	56-007- 000035
9	Wyoming Refining Company	A- HPV	T5, NSPS- GGG, J , Kb, KKK, QQQ NESHAP	D3 - Tanner Shatto	Petroleum Refining	56-045- 000001
10	Black Hills	A	T5, NSPS-000	D3 - Judy Shamley	Bentonite Plant	56-011-

	Bentonite-Colony					000001
11	Intermountain Construction	B1	SIP	D3 – Judy Shamley	Asphalt Plant	56-033-000011
12	Sheridan VA Hospital	SM	SIP	D3 – Debbie White	Heat Plant	56-033-000006
13	American Colloid- Lovell	A-HPV	T5, NSPS-000	D4 – Kirk Billings	Bentonite Plant	56-003-000003
14	Dakota Coal-Frannie	A-HPV	MACT-AAAAA, T5, NSPS-HH, 000	D4- -Greg Meeker	Lime Plant	56-029-000014
15	Wyoming Sugar-Worland	A	T5, NSPS-Dc, Kb	D4 – Greg Meeker	Sugar Beets Plant	56-043-000001
16	Lincoln County Wyoming	SM	SIP	D4 – Greg Meeker	Municipal Solid Waste Combustor	56-023-000030
17	Pacificorp-Jim Bridger	A-HPV	Acid Rain, MACT-ZZZZ, T5, NSPS- D, Y	D5 – Carl Disel	Power Plant	56-037-001002
18	Mt. Gas Resource-Patrick Draw	A-HPV	T5, NSPS- Kb, KKK	D5 – Carl Disel	Sweet Gas Plant	56-037-000036
19	Rockies Express-Wamsutter	B1	SIP	D5 – Nick Czarnecki	Compressor Station	56-037-000104
20	Questar Gas-Bruff U NCT-2 #1	SM	SIP	D5 – Tony Hoyt	Natural Gas Production	56-037-000075

**RCRA File Selection**

f_name	Program ID	city	Eval	Viol	SNC	Inf Action	Formal Action	Penalty	Univ	Select
AVIAT AIRCRAFT, INC	WY0001005412	AFTON	1	0	0	0	0	0	SQG	accepted_representative
BIG HORN COLLISION	WYR000003111	POWELL	1	5	0	0	0	0	CES	accepted_representative supplemental

BIG WYOMING TRUCKING	WYR000207076	RIVERTON	1	3	0	1	0	0	OTH	accepted_representative	
BRAKE SUPPLY CO. MOUNTAIN STATES DIV	WYD039506605	CASPER	1	4	0	0	0	0	CES	accepted_representative	supplemental
CAMPBELL COUNTY #1	WYR000206417	GILLETTE	3	1	0	0	1	0	OTH	accepted_representative	
CHEYENNE LANDFILL	WYR000207969	CHEYENNE	1	0	0	0	0	0	NON	accepted_representative	
CHURCH & DWIGHT CO INC	WYD094670726	GREEN RIVER	1	0	0	0	0	0	SOQ	accepted_representative	
EXXON - LABARGE DEHYDRATION FACILITY	WYD121211379	LABARGE	1	2	0	0	0	0	SOQ	accepted_representative	
FREMONT TOYOTA OF SHERIDAN	WYD036037075	SHERIDAN	1	5	0	1	0	0	OTH	accepted_representative	
FRONTIER REFINING	WYD051843613	CHEYENNE	2	4	1	0	1	0	TSD(LD F)	accepted_representative	
FROST CONSTRUCTION COMPANY	WYR000208017	LOVELL	1	8	0	0	0	0	NON	accepted_representative	Supplemental
HALLIBURTON	WYD005995170	CASPER	1	7	0	0	0	0	SOQ	accepted_representative	Supplemental
HETTINGER WELDING LLC	WYR000206839	GILLETTE	1	2	0	1	0	0	OTH	accepted_representative	
J&E INC., MURDOCH OIL INC. CARD LOCK STATION	WYR000207340	BASIN	1	12	0	1	0	0	OTH	accepted_representative	
JIM BRIDGER POWER PLANT	WYD070922844	POINT OF ROCKS	1	2	0	0	0	0	SOQ	accepted_representative	Supplemental
JIM'S AUTOMOTIVE & TIRE LLC	WYR000207647	BUFFALO	1	6	0	0	0	0	OTH	accepted_representative	Supplemental
KENNECOTT ENERGY, CORDERO-ROJO COMPLEX	WYD060282076	GILLETTE	1	0	0	0	0	0	SOQ	accepted_representative	
LINCOLN COUNTY, KEMMERER #2	WYR000206078	KEMMERER	2	0	0	0	0	0	OTH	accepted_representative	
LOST CABIN GAS PLANT	WY0000808162	LYSITE	1	0	1	0	0	0	CES	accepted_representative	



MARSHALL'S TRUCK REPAIR	WYR000207068	ROCK SPRINGS	1	4	0	1	0	0	OTH	accepted_representative
MCMURRY READY MIX COMPANY	WYR000201822	CASPER	0	1	1	0	1	###	OTH	accepted_representative
NALCO/EXXON ENERGY CHEMICALS LP	WYR000000497	GILLETTE	2	14	1	0	1	###	SQG	accepted_representative
NEILD OIL DBA AFTON TIRE COMPANY	WYR000207084	AFTON	1	2	0	1	0	0	OTH	accepted_representative
OFTEDAL CONSTRUCTION , INC.	WYR000207258	CASPER	1	4	1	0	2	###	CES	accepted_representative
PACIFICORP- NAUGHTON PLANT	WYT000010082	KEMMERER	1	0	0	0	0	0	SQG	accepted_representative
PC TRANSPORT	WYD156194920	CASPER	1	0	0	0	0	0	CES	accepted_representative
SILVER EAGLE REFINING- EVANSTON WY	WYD988869269	EVANSTON	1	0	1	0	1	###	LQG	accepted_representative
SINCLAIR CASPER REFINING COMPANY	WYD048743009	CASPER	1	2	0	0	0	0	TSD(LD F)	accepted_representative
SINCLAIR OIL CORPORATION, SUNLIGHT RANCH	WYR000206987	POWELL	1	5	0	0	1	0	OTH	accepted_representative Supplemental
SINCLAIR WYOMING REFINING COMPANY	WYD079959185	SINCLAIR	2	1	2	0	3	###	TSD(LD F)	accepted_representative
TEREX MINING	WYD988872446	GILLETTE	1	5	0	0	0	0	CES	accepted_representative
WOOD GROUP ESP INC.	WYR000001461	CASPER	1	10	1	0	2	###	LQG	accepted_representative

### CWA File Selection

Category	#of files	Name of File	File Selection Rationale
Majors	3	City of Thermopolis, WY0020192	OTIS indicates DMR violation concerns; WY response indicates facility in SNC
		City of Lander, WY0020389	OTIS indicates DMR violation concerns
		City of Powell, WY0020648	WY response indicates facility in SNC
Minors (industrial and municipal facilities)	13	1. Beren Corporation, WY0000663	Starting at #20 on the WY list 5B1 and selecting every 20 <sup>th</sup> facility thereafter except for the last file selection. In following the selection procedure of every 20 <sup>th</sup> facility, the 13 <sup>th</sup> file selection would have been the same company as the 12 <sup>th</sup> file. Therefore, the next 20 <sup>th</sup> facility was selected for 13 <sup>th</sup> file for the SRF review.
		2. Black Diamond Energy, Inc., WY0052752	
		3. Citation Oil and Gas Corp., WY0001210	
		4. Coleman Oil and Gas, Inc., WY0054062	
		5. Devon Energy Production CO, LP, WY0038610	
		6. EnCana Oil and Gas Co., WY0027251	
		7. Town of Granger, WY0022373	
		8. Robert Hudson, WY0039187	
		9. L and J Operating, Inc., WY0054348	
		10. McMurry Ready Mix Company, WY0054160	
		11. PacifiCorp, WY0020311	
		12. Pennaco Energy, Inc., WY0051543	
		13. Redstone Resources, Inc., WY0044351	
CAFO	1	Wyoming Feeders, Inc., Wyoming Feeders, Inc., WY0023400	Random selection from 4 CAFOs which were not part of the EPA oversight inspections.
Storm Water	3	Garbett Construction Inc., WY103724	Random selection from WY list 5B2; selected each 47 <sup>th</sup> facility on the list.
		Oftedal Construction Inc., WY103625	
		Wyoming Dept. of Transportation – Rock Springs, WY320480	
Formal Enforcement Actions	5	Union Pacific, Docket # 4202-08	Enforcement actions were either initiated or concluded in the review period. Files selected include: one storm water and one CAFO enforcement action, two files which were identified in OTIS and in the WY response to the OTIS SRF Results as significant actions, and one minor source file that EPA had conducted a review in FY08.
		Frontier Refining, WY000442	
		Wyoming Refining, WY0001163 (Docket # 4240)	
		WN McMurry, WYR103000	
		Hageman Dairy, Docket # 4297-08	

## **APPENDIX G: FILE REVIEW ANALYSIS**

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

Initial Findings indicate the observed results. Initial Findings are preliminary observations and are used as a basis for further investigation. Findings are developed only after evaluating them against the PDA results where appropriate, and dialogue with the state 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: Wyoming

Review Period: Fiscal Year 2008

CAA Metric #	CAA File Review Metric Description:	Metric Value	Initial Findings
Metric 2c	% of files reviewed where MDR data are accurately reflected in AFS.	3%	Review of randomly selected files revealed missing and incorrect data elements in all but one file: action items for FCE and NOV were missing, inspection dates were entered in the Date Scheduled element but not the Date Achieved (resulting in inaccurate OTIS data metrics), incorrect/missing pollutants, one incorrect SIC code, incorrect compliance status, missing Title 5 program code, incorrect operating status, action codes not linked, addresses missing Sector-Township-Range
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.	102%	Inspection commitments for FY2008 were met and 6 additional inspections were conducted. The State of Wyoming had negotiated and received approval for conducting compliance monitoring program pursuant to an alternative plan. The State completed 82 annual inspections, 25 biennial inspections, 95 five-year inspections, and 89 additional minor SIP sources. The State also targets two industrial groups with 2 FCEs every year - petroleum refineries due to the complexity of operation and amount of emission, and the trona industry where deterioration of air quality in the Green River Basin warrants additional attention. The State also conducted 6 unplanned inspections responding to concerns that arose during the year.

<b>Metric 4b</b>	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.		<p>Compliance Reports: The State is submitting 100% of their inspection reports to EPA and normally within 60 days of completion of the report. The commitment is submittal of 10% of inspection reports.</p> <p>Sector Workplan: the State and Region 8 are working collaboratively on industry sector initiatives for petroleum refining, acid manufacturing, power plants, and oil &amp; gas production.</p>
<b>Metric 6a</b>	# of files reviewed with FCEs.	20	Stratified random selection of statistically significant count
<b>Metric 6b</b>	% of FCEs that meet the definition of an FCE per the CMS policy.	90%	State had not observed visual tank seal gap inspection in over 7 years, test result for an NOx emissions not in file and no State follow-up
<b>Metric 6c</b>	% of CMRs or facility files reviewed that provide sufficient documentation to determine compliance at the facility.	100%	Compliance Monitoring Reports continue to be complete and accurate. Reports contain all required elements plus detailed description of process, permitting history, and enforcement history. Report typically include multiple appendices of supporting compliance documents.
<b>Metric 7a</b>	% of CMRs or facility files reviewed that led to accurate compliance determinations.	95%	EPA substantially agrees with State compliance determinations. One facility with non-NSPS, minor source, SIP-only flare was smoking under Reference Method 22 - found no documentation in file verifying follow-up repair of corroded piping
<b>Metric 7b</b>	% of non-HPVs reviewed where the compliance determination was timely reported to AFS.	33%	Three minor source violations determined to not be HPVs. Compliance status and action codes in AIRS were incorrect.
<b>Metric 8f</b>	% of violations in files reviewed that were accurately determined to be HPV.	100%	All violations found were appropriately designated as HPV or non-HPV according to policy. State is attentive to the HPV policy and accurately designates violations as HPV then notifies EPA in a timely fashion
<b>Metric 9a</b>	# of formal enforcement responses reviewed.	14	
<b>Metric 9b</b>	% 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.	91%	10 of 11 violators were returned to compliance. Title V NOx periodic test delayed due to physical sampling constraints - being handled thru Title V permit renewal

<b>Metric 10b</b>	% of formal enforcement responses for HPVs reviewed that are addressed in a timely manner (i.e., within 270 days).	93%	
<b>Metric 10c</b>	% of enforcement responses for HPVs appropriately addressed.	100%	All High Priority Violations were address through a referral to the State Attorney General's office
<b>Metric 11a</b>	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	NA	Penalty calculations were not made available to EPA for review. Unable to document appropriate gravity and economic benefit from the files. Language was added to the PPA which provides EPA an opportunity to discuss with the State past settlement actions and identify any inconsistencies with the requirements of Section 110(a)(2) of the Clean Air Act.
<b>Metric 12c</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	NA	
<b>Metric 12d</b>	% of files that document collection of penalty.	100%	State Attorney General enters into court an Order to Terminate and Dismiss Complaint only after all settlement terms are satisfied including penalty collection. Copy of Order is sent to EPA.

## CWA Program

Name of State: Wyoming      Review Period: Fiscal Year 2008

CWA Metric #	CWA File Review Metric:	Metric Value	Initial Findings
<b>Metric 2b</b>	% of files reviewed where data is accurately reflected in the national data system.	19%	WY has not complied with WENDB Data Elements for major enforcement actions and minor permit and inspection information.  In the inspection data field in PCS, inspection reports completion dates rather than the inspection dates were entered.

<p><b>Metric</b> <b>4a</b></p>	<p>% of planned inspections completed. Summarize using the Inspection Commitment Summary Table in the CWA PLG.</p>		<p>WY committed to 23 major facility inspections; it completed 17.</p>
<p><b>Metric</b> <b>4b</b></p>	<p>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 identified.</p>		<p>WY exceeded its commitments for minor source inspections. WY technically met its CAFO inspection commitments. WY conducted 17 or its 23 inspection commitments. WY did not submit its 2006 or 2007 Annual Non-Major Non Compliance Reports in a timely manner. WY submitted its enforcement action reports, storm water and SSO reports as required by the FY08 PPA.</p>
<p><b>Metric</b> <b>6a</b></p>	<p># of inspection reports reviewed.</p>		<p>15 inspection reports were reviewed</p>
<p><b>Metric</b> <b>6b</b></p>	<p>% of inspection reports reviewed that are complete.</p>	<p>27%</p>	<p>WY does not conduct Compliance Evaluation Inspection (CEI) at major facilities. The WY inspection checklist for all reports reviewed does not address/cover all permit requirements.</p>
<p><b>Metric</b> <b>6c</b></p>	<p>% of inspection reports reviewed that provide sufficient documentation to lead to an accurate compliance determination.</p>	<p>53%</p>	<p>EPA will discuss with WY areas to improve inspection report review: a) file review prior to an inspection, b) improve inspection checklist to evaluate other significant permit requirements; and c) follow up on noncompliance findings.</p>

<b>Metric 6d</b>	% of inspection reports reviewed that are timely.	85%	
<b>Metric 7e</b>	% of inspection reports or facility files reviewed that led to accurate compliance determinations.	66.63%	WY had one single-event violation at the Frontier Refinery (WY0000442). It was not entered into PCS.  Review of OTIS found two major facilities with patterns of DMR violations which do not appear to be reviewed for possible compliance issues.
<b>Metric 8b</b>	% of single event violation(s) that are accurately identified as SNC or Non-SNC.	0%	WY needs to identify SEVs and enter them into PCS.
<b>Metric 8c</b>	% of single event violation(s) identified as SNC that are reported timely.	0%	WY needs to identify SEVs and enter them into PCS.
<b>Metric 9a</b>	# of enforcement files reviewed		Five facility files were reviewed.
<b>Metric 9b</b>	% of enforcement responses that have returned or will return a source in SNC to compliance.	0%	The one enforcement action reviewed did not include appropriate injunctive relief to bring the facility back into compliance.
<b>Metric 9c</b>	% of enforcement responses that have returned or will returned a source with non-SNC violations to compliance.	75%	
<b>Metric 10b</b>	% of enforcement responses reviewed that address SNC that are taken in a taken in a timely manner.	100%	



<b>Metric 10c</b>	% of enforcement responses reviewed that address SNC that are appropriate to the violations.	100%	With the exception of the major facility reviewed for Metric 9b, the other enforcement files were for minor sources and all were addressed in a timely manner.
<b>Metric 10d</b>	% of enforcement responses reviewed that appropriately address non-SNC violations.	100%	
<b>Metric 10e</b>	% enforcement responses for non-SNC violations where a response was taken in a timely manner.		
<b>Metric 11a</b>	% of penalty calculations that consider and include where appropriate gravity and economic benefit.	75%	In FY08, WY has documented how it determines gravity and economic benefit.
<b>Metric 12a</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	
<b>Metric 12b</b>	% of enforcement actions with penalties that document collection of penalty.	100%	

## RCRA Program

WYOMING

Review Period: Fiscal Year 2008

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.	100%	
Metric 4a	Planned inspections completed	100%	
Metric 4b	Planned commitments completed	100%	
Metric 6a	# of inspection reports reviewed.	32	32 files were reviewed.
Metric 6b	% of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance at the facility.	100%	32 of the 32 inspection reports reviewed adequately documented violation determination.
Metric 6c	Inspections reports completed within a determined time frame.	78%	25 of the 32 reports were completed within 45 day timeframe.
Metric 7a	% of accurate compliance determinations based on inspection reports.	100%	
Metric 7b	% of violation determinations in the files reviewed that are reported timely to the national database (within 150 days).	100%	
Metric 8h	% of violations in files reviewed that were accurately determined to be SNC.	100%	6 of the new SNC were reviewed and determined to be accurately designated as such.
Metric 9a	# of enforcement responses reviewed.	13	6 informal and 7 formal actions were reviewed.
Metric 9b	% of enforcement responses that have returned or will return a source in SNC to compliance.	100%	
Metric 9c	% of enforcement responses that have returned or will return Secondary Violators (SV's) to compliance.	100%	
Metric 10e	% of enforcement responses reviewed that are taken in a timely manner.	95%	1 of the Warning Letters issued to a secondary violator exceeded the allowed time frame.
Metric 10d	% of enforcement responses reviewed that are appropriate to the violations.	84%	Action should have been taken at 5 of the facilities for the violations found.
Metric 11a	% of reviewed penalty calculations that consider and include where appropriate gravity and economic benefit.	100%	6 of the 6 penalties reviewed consider and include both gravity and economic benefit components.

<b>Metric 12a</b>	% of penalties reviewed that document the difference and rationale between the initial and final assessed penalty.	100%	For 6 of the 6 penalties reviewed, the state records contain documentation of the rationale for penalty adjustment.
<b>Metric 12b</b>	% of files that document collection of penalty.	100%	6 of the 6 penalties reviewed properly documented collection of a penalty.

## **APPENDIX H: CORRESPONDENCE**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8ENF-PJ

John V. Corra, Director  
Wyoming Department of Environmental Quality  
122 W. 25th Street  
Cheyenne, WY 82002

Re: FY 2008 State Review Framework (SRF)  
Review

Dear Mr. Corra:

Through this letter, the Environmental Protection Agency (EPA) Region 8 is initiating a review of the Wyoming Department of Environmental Quality (WDEQ) Resource Conservation and Recovery Act (RCRA) Subtitle C, Clean Water Act National Pollutant Discharge Elimination System (NPDES), and Clean Air Act Stationary Source Enforcement Programs. We will review inspection and enforcement activity from Federal Fiscal Year 2008.

In FY2007, EPA regions completed the first round of reviews using the State Review Framework (SRF) protocol. This work created a baseline of performance from which future oversight of state compliance and enforcement programs can be tracked and managed. In early FY2008, implementation of the first round of reviews was evaluated and a work group composed of EPA headquarters, regional managers and staff, Environmental Council of States (ECOS), state media associations and other state representatives revised the SRF elements, metrics, process and guidance.

The second round of the SRF is a continuation of a national effort that allows Region 8 to ensure that WDEQ meets agreed upon minimum performance levels in providing environmental and public health protection. The review will include:

- ▶ discussions between Region 8 and WDEQ program managers and staff,

- ▶ examination of data in EPA and (if applicable) WDEQ data systems, and
- ▶ review of selected WDEQ inspection and enforcement files and (if applicable) policies.

Region 8 and WDEQ have the option of agreeing to examine state programs that broaden the scope of traditional enforcement. This may include programs such as pollution prevention, compliance assistance, innovative approaches to achieving compliance, documenting and reporting outputs, outcomes and indicators, or supplemental environmental projects. We welcome WDEQ suggesting other compliance programs for inclusion.

We expect to complete the WDEQ review, including the final report, by September 30, 2009. Our intent is to assist WDEQ in achieving implementation of programs that meet federal standards and are based on the goals we have agreed to in WDEQ's Performance Partnership Agreement. Region 8 and WDEQ are partners in carrying out the review. If we find issues, we want to address them in the most constructive manner possible.

Region 8 has established a cross program team of managers and senior staff to implement the WDEQ review. Corbin Darling will be Region 8's primary contact for the review (303 312 -6426, [darling.corbin@epa.gov](mailto:darling.corbin@epa.gov)). He will coordinate the review for the Region. I am Region 8's senior manager with overall responsibility for the review. The program experts on the review team will be:

- Lee Hanley, NPDES, 303 312-6555, [Hanley.lee@epa.gov](mailto:Hanley.lee@epa.gov)
- Scott Whitmore, CAA, 303 312-6317, [Whitmore.scott@epa.gov](mailto:Whitmore.scott@epa.gov)
- Linda Jacobson, RCRA, 303 312-6503, [Jacobson.linda@epa.gov](mailto:Jacobson.linda@epa.gov)

On December 17, 2008, Corbin Darling and I met with you and Todd Parfitt to go over the review expectations, procedures and schedule. Program-specific kick off meetings with your program managers and/or program SRF contacts are underway, and should be wrapped up next week.

The review protocol includes numerous program specific worksheets, metrics, and report templates that Region 8 and WDEQ will use to complete the review. We believe it will assist us in carrying out an efficient, focused review. All of these materials have been developed jointly by EPA regional and HQ staff and numerous state officials.

Enclosed with this letter are the Official Data Sets (ODS) that will be used in the review (one for each program). Please respond by February 27, 2009, with an indication that you agree with the ODS, or if there are discrepancies, please provide that information in the spreadsheet file and send it electronically to the applicable EPA review team member and Corbin Darling. Please note that

minor discrepancies that would not have a substantive impact on the review do not need to be reported. If you do not respond by the date noted above, we will proceed with our preliminary data analysis and file selection under the assumption that the ODS is correct.

EPA has designed the SRF Tracker as the repository for holding all SRF products including draft and final documents, letters, data sets, etc. It is also a management tool used to track the progress of a state review and to follow-up on the recommendations. Regions will enter and update all information for their states in the SRF Tracker. The Office of Enforcement and Compliance Assurance (OECA) will use the Tracker to monitor implementation of the review. States can view and comment on their information securely on the internet.

All information and materials used in this review may be subject to federal and/or state disclosure laws. While EPA does not intend to post this information on any public website, EPA will release the information, as appropriate, in response to a request under the Freedom of Information Act that is properly submitted.

If you have any questions regarding the SRF review, please contact me at (303) 312-6051 or have your staff contact Corbin Darling at (303) 312-6426.

Sincerely,

- *signed* -

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure: Official Data Sets

cc: Todd Parfitt, WDEQ  
LeRoy Feusner, WDEQ  
John Wagner, WDEQ  
David Finley, WDEQ

cc: By *e-mail*  
Carol Rushin , Acting Regional Administrator  
Steve Tuber, Acting Deputy Regional Administrator



State Comments Draft Report:

The screenshot shows an IBM Lotus Notes application window titled "Final State Review Framework response (3) (2).docx - IBM Lotus Notes". The window has a menu bar with "File", "Edit", "View", "Create", "Actions", "Tools", "Window", and "Help". Below the menu bar is a tabbed interface with several open tabs, including "Home", "Corbin D...", "Sep. 28 -...", "Daily E...", "Wyomin...", "New Mess...", "ND SRF", and "Final ...". A toolbar with various icons is located below the tabs. The main content area displays an email with the following details:

- Subject:** Final State Review Framework response (3) (2).docx
- From:** Parfitt, Todd to: Corbin Darling, Corbin Darling
- Date:** 09/09/2009 12:53 PM
- Cc:** "Wagner, John"

The email history indicates: "This message has been forwarded." Below this, there is an attachment icon for a Word document titled "Final State Review Framework response (3) (2).docx". The body of the email contains the following text:

Corbin,

As discussed, attached are the final comments on the SRF from the Water Quality Division. Please direct any questions regarding these comments to John Wagner and cc me.

You previously received comments from Bob Breuer regarding the Solid and Hazardous Waste comments.

The Air Quality Division would like clarification on the comment in the Executive Summary, Item C, Identification of Alleged Violations. Specifically it is unclear what is being referenced in the statement "incorrect compliance determinations were noted in 2 out of 3 violations reviewed".

Thanks

Todd Parfitt  
Deputy Director  
Department of Environmental Quality  
307-777-7937  
tparfi@wyo.gov

Email to me and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

The bottom of the screenshot shows the Windows taskbar with the Start button, several open application windows, and a system tray with the time 5:09 PM.

# **FY 2008 Enforcement Programs**

## **State Review Framework**

### **Water Quality Division Comments**

- Element 1: Data Completeness - WYDEQ resolved to use the ICIS batch user option and invested significant state time and resources to complete programming and system upgrades to accomplish this task. WYDEQ continues to wait on EPA completion of the ICIS system to facilitate the upload of data. WYDEQ maintains a complete and accurate record of all permit information and has committed in the PPA to provide reports to EPA on request. Until the ICIS problems are repaired, the WYPDES program will commit compliance staff and resources to meeting and maintaining PCS requirements for all major permits. EPA has committed to provide training on PCS entry to help accomplish this goal.
- Element 2: Data Accuracy – Same as Element 1.
- Element 3: Timeliness of Data Entry - No response required.
- Element 4: Completion of Commitments - The WYPDES program recognizes that the ANCR reports were overdue and has since submitted all ANCR reports. WYDEQ will complete the Annual Non-major Non-compliance report in a timely manner in the future.
- Element 5: Inspection Coverage - WYDEQ provided corrected EOY report storm water inspection data to EPA. The correct number of storm water inspections was 162 vs. 200 committed. However, it should be noted that of Wyoming's 2,121 storm water authorizations, 232 are for oil and gas operations. These operations do not require permits under federal rule but are regulated under the state program. EPA's review acknowledges no credit to the state for taking responsibility over this significant source that is otherwise ignored under the federal program. WYDEQ has documented that 68% of the construction disturbed acreage in the state is related to oil and gas development. Inspectors conduct informal inspections of on-the-ground practices while conducting WYPDES permit inspections in the energy fields. These informal inspections are not documented. Wyoming will continue to address storm water inspections as resources allow recognizing higher priorities exist in the energy sector. Specifically, Wyoming has elected to perform additional inspections of coal bed methane discharges which is a large and highly contentious permit sector.
- Element 6: Quality of Inspection or Compliance Evaluation Reports - Wyoming does not agree with the conclusion that current inspections do not meet the requirements of Compliance Evaluation Inspections (CEI's). WYDEQ has conducted compliance inspections without operation and maintenance review for 30 years and has not witnessed any pattern of

operation and maintenance related noncompliance. Given the states limited resources, growing permit universe, and lack of federal funding to meet these increasing demands WYDEQ can see no environmental benefit to this requirement, especially for private sector permits. Effluent violations which occur at public sector facilities often trigger O&M inspections from engineers in the Water Quality Division's Water/Wastewater section; however, these inspections are not recorded as WYPDES inspections.

Element 7: Identification of Alleged Violations - The issues identified under this Element appear redundant (same as Elements 1 and Element 2). WYDEQ maintains a complete and accurate record of all permit information and has committed in the PPA to provide reports to EPA on request. WYDEQ does conduct screens for recurring minor DMR violations and has issued NOV's based on these reviews.

Element 8: Identification of SNC and HPV – Same as Element1, Element2, and Element 7.

Element 9: Enforcement Actions Promote Return to Compliance – Corrective action for the cited enforcement action is addressed in an Administrative Order through the Solid and Hazardous Waste Division.

Element 10: Timely and Appropriate Action – No issues identified.

Element 11: Penalty Calculation Method – No issues identified.

Element 12: Final Penalty Assessment and Collection – No issues identified.


**RE: Draft SRF Report for Review/Comment - IBM Lotus Notes**

File Edit View Create Actions Tools Window Help

Home x Corbin D... x Sep. 28 ... x Daily E... x > Wyomin... x New Mess... x > ND SRF x RE: Draf... x

Search All Mail

Records New Reply Reply to All Forward Display More Report SPAM Report Phishing

 **RE: Draft SRF Report for Review/Comment**  
Breuer, Bob to: Corbin Darling  
Cc: "Link, Tim", "Uzzell, James", "Parfitt, Todd", "Anderson, Carl" 08/19/2009 10:57 AM  
[Show Details](#)

History: This message has been forwarded.

WDEQ/SHWD Inspection & Compliance (I&C) comments are below.

(1) WDEQ/SHWD/I&C FTE count for RCRA I&C should be documented at 3.5 FTE (roundoff of 3.67 FTE figure provided by WDEQ/Adm/accounting on 8/19/09);

(2) Wyoming has continued the effort to focus on identification/inspection of remaining LQGs since many such generators have closed or reverted to SQG or CESQG, resulting in our inspection percentage of this category being a "lagging indicator" of actual LQG coverage and;

(3) A significant component of enforcement actions involve physical presence at the site and/or face to face interactions with responsible parties which EPA's 3rd party review cannot incorporate. This can lead to understandable disagreements in enforcement response evaluations.

- - Bob Breuer, I&C Manager, 307-473-3454

-----Original Message-----  
From: Anderson, Carl  
Sent: Thursday, August 13, 2009 8:38 AM  
To: Breuer, Bob  
Subject: FW: Draft SRF Report for Review/Comment

Office (Network) 5:12 PM

Comments received from State 10/2/2009:

FY 2008 Enforcement Programs  
State Review Framework  
Air Quality

Comment on the air quality data deficiencies Elements 1, 2, 3 and 7.

The PPA for 2008 under F.1 states; “Provide timely inspection and enforcement activity data to AFS on any sources that are major according to the 1990 CAA definition. Provide other data, such as general description of each source, compliance and operating status, compliance certification information, and types of criteria pollutants emitted, as possible, recognizing State resource limitations. At this time the State is beginning an information technology initiative which among other items will include a data collection and storage capability to aid in tracking, reporting and retrieval of stack test data. The stack test storage and retrieval portion of this data system is projected for completion in the summer of 2010. Upon completion of this data system, the State will have the ability to begin reporting stack test data to EPA’s AFS system. In the interim, the State will work cooperatively with Region 8 and make stack test report hard copy files available to EPA such that EPA can review and input data to their data system if desired.”

This PPA is what the AQD has worked to meet and acknowledges the deficiencies in the State’s ability to report all required data elements desired by EPA in the AFS system. We believe we’ve met the PPA commitments. Region 8’s draft review acknowledged these areas require attention in their review of Items 1, 2, 3 and 7 which listed these areas as an “Area for State Attention.” The final draft SRF downgraded these ratings to “Area for State Improvement” with recommendations required, presumably based on comments from EPA Headquarters.

DEQ/AQD believes the commitments made in the PPA have been met.

Comments received from State 10/5/2009:

FY 2008 Enforcement Programs  
State Review Framework  
Solid and Hazardous Waste Division

**1. Data Accuracy**

**EPA SRF Report, Element 2, Data Accuracy comment,** “WDEQ has committed to work to clean up the data base for its longstanding secondary violators which have had outstanding violations for greater than 240 days.” In other words, the compliance database used by US EPA and WDEQ/SHWD does not accurately reflect current compliance rates due to older violations which have likely been resolved but not updated in EPAs’ database.

**What is leading to this problem:** There are numerous, past data entries for non-compliance by WDEQ and EPA which have not been updated as “return to compliance” (RTC). Approximately 2/3 or 44 of these are historic EPA inspections prior to WDEQ taking over the RCRA hazardous waste program. The WDEQ has worked to pare down its share of these to less than 25 and continues to reduce this number.

**Solution(s):** Part or all of the solution is for both WDEQ and EPA to review their respective compliance files and expedite RTC status of outdated data entries.

**2. Timeliness of Data Entry**

**EPA SRF Report, Element 3, Timeliness of Data Entry comment,** “The state enters its data in a timely fashion except for entry of the Significant Non-Compliance (SNC) data, 40 % of which is entered 60 days past the date of SNC identifications.”

**What is leading to this problem:** Many of the cases involve waiting on additional information from the facility such as analytical data or the SNC determination requires consultations internally and with US EPA.

**Solution(s):** WDEQ will continue to document/explain where individual cases require time beyond the 60 days to determine violations and enforcement response. Historically, the EPA and most states unavoidably have cases outside this time frame and will continue to properly document the delay while increasing efforts to expedite results. Individual inspectors will evaluate establishing a

“reminder” or “tickle” file system where a reminder is placed in regularly consulted files or data bases to check on status of needed information from inspected facilities.

### **3. Inspection of Large Quantity Generators (LQG) of Hazardous Wastes**

**EPA Element 5 Comment**, “Targeting fails to achieve 100% LQG coverage on a 5-year basis. The state may need to shift inspection focus from CESQGs to LQGs to ensure 100% LQG inspection coverage.”

**What is leading to the problem(s):** Although a significant number of facilities initially registered in the LQG status category, many such facilities have reduced their hazardous waste generation rates to below LQG thresholds (2,200 lbs/month). The problem is the facilities continue to be improperly designated on EPA books as LQGs and EPA/WDEQ have mistakenly assumed a formal letter from a facility was required before changing the generator status in the EPA database. This results in the reported percentage of LQGs inspected being artificially low/misleading and somewhat of a “lagging indicator” since more LQGs should be re-designated as lower volume generators each year. Of the estimated 27 LQGs on EPA books, there is significant evidence approximately 16 or 60 % of these do not currently generate LQG volumes of hazardous wastes due to waste minimization/pollution prevention efforts encouraged by WDEQ/SHWD.

**Solution(s):** It has been clarified to WDEQ/SHWD inspectors a formal letter from the facility *is not required to re-designate a facility* to Small Quantity Generator (SQG) or exempt generator from LQG when facts obtained during the inspection should speak for themselves to indicate a lower waste generation status. This will more appropriately represent the number of LQGs and increase the percentage of LQGs inspected in future years.

### **4. Quality, proper documentation of observations and timeliness for inspection reports**

**EPA SRF Report, Element 6, Timeliness of reports**, “The state inspection reports properly document observations and include accurate descriptions of observations; however, 5 of the 32 reports were not timely.”

**What is leading to this problem:** As EPA states, the WDEQ/SHWD generates quality reports and properly documents observations but a few of the reports are not completed within a 45-day time frame established by EPA. Five (5) of the 32 files/reports reviewed by EPA were not completed within this 45-day time frame and 3 of those were only a few days beyond. This is because some reports must wait on inspection follow-up information from facilities such as analytical testing, rule determination assistance from EPA or other factors which can be outside WDEQ/SHWD control.

**Solution(s):** WDEQ will continue to document/explain where individual cases require time beyond the 45-days to properly complete inspection reports. WDEQ/SHWD will also continue to request what we believe is a more appropriate 60-day time frame for larger, more complex facility inspections where delays can result while awaiting test results, rule determination assistance from EPA or other factors. Individual inspectors will evaluate a “reminder” or “tickle” file system where a reminder is placed in regularly consulted files or data bases to more frequently check on status of information needed from inspected facilities.

## 5. Appropriate enforcement response/penalties

**EPA SRF Report, Element 10, Appropriate Action,** “For 5 of the thirty-two files reviewed, some type of action [formal enforcement] should have been taken to address the identified violations”.

**What is leading to the problem:** A significant component of enforcement actions involve physical presence at the site and/or face to face interactions with responsible parties which EPA's 3rd party review cannot incorporate. This can lead to understandable disagreements in enforcement response evaluations. WDEQ also requires “conference and conciliation” to resolve violations prior to initiating more formal enforcement or seeking a penalty with smaller business (< 100 employees) who are making efforts to resolve violations. Many facilities in this category have fewer than 3 employees and, although they demonstrate a desire to comply, they do not have regulatory staff or resources possessed by larger companies.

**Solution(s):** WDEQ/SHWD will continue this process of conference and conciliation with smaller businesses and improve documentation of rationale when a penalty and/or more formal enforcement was not pursued. Overall, the WDEQ/SHWD believes it has successfully completed “appropriate action” on enforcement and significant penalties or voluntary settlements.



Comments received from State 10/2/2009:

FY 2008 Enforcement Programs  
State Review Framework  
Water Quality

There are no outstanding issues identified with review elements 3, 4, 10, 11 & 12 and the DEQ/WDQ has no additional comment on those items. Elements 1, 2, 5, 6, 7, 8 & 9 have all been identified in the SRF report as either needing State attention or requiring some kind of corrective action. These comments will focus on those items and the EPA recommendations for action.

**Review elements 1, (data completeness) 2, (data accuracy) 7, (identification of alleged violations) and 8 (identification of SNC and HPV)** all point to a single programmatic issue, i.e. data entry by the state into PCS. The WQD accepts responsibility for part of the problem which essentially has been an insufficient staff effort assigned to keep up with the agreed-upon responsibilities. WQD has agreed to provide increased staff and resources during FY 2010 and EPA has agreed to provide training on PCS data entry.

Though this seems to be an appropriate course of action in the short term, it is still unclear whether it will result in a resolution of the data entry issues. EPA bears a part of the responsibility for the data issues because of their failure to live up to commitments regarding batch data uploads to ICIS. A number of years back, WYDEQ resolved to use the ICIS batch user option for the transfer of state program data and invested considerable state time and resources to complete the necessary programming and system upgrades to accomplish that task. EPA has continually pushed back developing the capability for states to batch-load data into the new ICIS system. Wyoming originally expected this capability to be completed in 2007.

**Review element 5 – Inspection coverage:** There seems to be some kind of an error with the metrics and findings used to measure performance for this element. The draft review that was provided to the state include four (4) metrics but the final review indicates only two (2). One of these is “*Inspections at NPDES non-majors with general permits excluding those that address solely stormwater, pretreatment, CAFOs, CSOs or SSOs.*” It then provides errant stormwater permit inspection figures (141/200) as the basis for a rating. Additionally, there is no “Finding” that is based on this metric. The findings are based on the numbers of inspections completed for majors, minors, CAFOs and stormwater. There is clearly a disconnect between the metrics and the findings on this element.

**Review element 6 – Quality of inspection or compliance evaluation reports:** As best as we can determine from this report, Wyoming has one, single deficiency in regard to the quality of inspections i.e. the state inspectors focus on sampling the discharges and reviewing records and files but do not do an operations and maintenance “walk through” as part of the inspection. This is listed as a deficiency, however, there is no real requirement for such an inspection.

EPA’s explanation of this deficiency lists 2 excerpts from the State/EPA MOU as the basis for EPA’s position that WYDEQ must perform O&M inspections on all permitted facilities. The first states: *“For each permit prepared..., the Division will require that the permittee at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.”* This provision of the MOU relates to a required permit condition, not an inspection technique or requirement. Permits issued by the state all contain a requirement that the permittee must operate and maintain the facility to achieve compliance with the conditions of the permit. There is not some independent requirement to operate and maintain a facility in any particular fashion except to achieve the discharge limits and conditions and to maintain the appropriate records.

The second MOU provision cited by EPA is *“The Division shall inspect the facilities of dischargers, including where appropriate, effluent sampling and examination of monitoring records, reports, equipment, and methods”*. EPA interprets this provision as a requirement to perform an operation and maintenance “walk through” at each inspection. DEQ measures the performance of a treatment facility by the quality of its effluent. When a problem with the effluent is identified it may lead to an evaluation of facility operation and maintenance by the agency’s engineering staff not by a permit inspector. This is how the inspections have been done since 1974 without any issue and is completely within the meaning of the MOU. Conducting the checklist walk-through demanded by EPA will have very little to no effect on actual permit compliance and would be a very poor use of limited state resources. Furthermore, since O&M inspections are not actually required in the delegated program, the rating of the quality of the facility inspections should not be based upon them.

**Review element 9 – Enforcement actions promote return to compliance:** The Water program received a poor rating on this element based upon a single enforcement action that EPA contends did not include appropriate injunctive relief to bring the facility back into compliance. However, appropriate injunctive relief had in fact been established in that particular case. The facility in question was subject to separate but simultaneous enforcement actions by the DEQ SHWD and the DEQ WQD for various violations of the Wyoming Environmental Quality Act. The settlement of the SHWD violations included an Administrative Order on Consent that contained sufficient

injunctive relief to address a return to compliance for the water violations. Therefore, the WQD violation only resulted in a monetary penalty. If this is the only circumstance EPA found, the element should at least be rated as meeting SRF requirements.