STATE REVIEW FRAMEWORK

Alaska

Clean Air Act and Clean Water Act Implementation in Federal Fiscal Year 2012

U.S. Environmental Protection Agency
Region 10, Seattle

Final Report
December 1, 2014

Executive Summary

Introduction

EPA Region 10 enforcement staff conducted a State Review Framework (SRF) oversight review of the Alaska Department of Environmental Conservation's (DEC's) implementation of its compliance and enforcement programs for Clean Air Act (CAA) stationary sources and for Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES), known as the Alaska Pollutant Discharge Elimination System (APDES).

This is the third SRF review of DEC's Air program but only the first SRF review of the APDES compliance and enforcement program. Accordingly, the APDES oversight review included evaluations of DEC's initial and ongoing APDES program commitments as part of its transition to the fully approved state NPDES program.

EPA Region 10 approved DEC's APDES program in October 2008. EPA Region 10 transferred the NPDES program to DEC's APDES program in four phases over four years (2008-2012). The Phase IV transfer, the final phase covering the NPDES oil and gas sector, was completed at the beginning of federal fiscal year (FY) 2013. Because the primary year reviewed in this report is FY 2012, Region 10 did not include oil and gas facilities in the review.

EPA Region 10 reviewed the DEC APDES compliance and enforcement program to help improve DEC's ongoing operations, and to provide feedback and insights that may prove helpful in the transition and in DEC's ramp up to a fully implemented, vigorous APDES compliance and enforcement program.

EPA bases these SRF findings on multiple sources, including data and file review metrics, DEC data submissions and reports, DEC program commitments, and conversations with DEC management and staff. EPA will track recommended and corrective actions from the review in the SRF Tracker and publish reports and recommendations on EPA's Enforcement and Compliance History Online (ECHO) web site.

Note, the terms State and DEC are used interchangeably in this report and its appendices.

Areas of Strong Performance – CAA

- DEC has in place an *Enforcement Manual* (updated July 2012) to provide general policy and guidance concerning the agency's techniques and procedures for inspections, complaint investigations, and administrative, civil and criminal enforcement. Each Division must supplement this policy and guidance document with specific policies and procedures that accommodate how the division performs its mission. The Air Permits Program has developed templates for all enforcement related correspondence such as Full Compliance Evaluation (FCE) information requests, FCE non-compliance corrections,

and FCE in-compliance letters. Additional inspection tools consist of CEM review checklists, source test review checklists, and FCE checklists.

- In general, DEC has a good, solid compliance and enforcement program for CAA stationary sources.

Areas of Strong Performance – CWA

- **Finding 1-2:** DEC exceeded expectations for APDES data entry rates regarding discharge monitoring report data for major facilities.

- **Finding 2-5**: DEC meets expectations with regard to completeness of inspection reports for compliance determination purposes.

Priority Issues to Address – CAA

The following are the top-priority issues affecting the Stationary Sources compliance and enforcement program's performance:

- No significant program issues were identified.

Actions to Address Priority Issues – CAA

No significant program issues were identified. Suggestions to improve minor issues are included within the text of the CAA findings.

Priority Issues to Address – CWA

The SRF review revealed a number of significant deficiencies in the APDES compliance and enforcement program. The breadth and depth of the problems will necessitate a number of follow up corrective actions to bring the State's program in line with national expectations and requirements for an authorized state program. The following are the top-priority issues affecting the DEC APDES compliance and enforcement program's performance:

- **Findings 2-1, 2-2 and 2-3:** DEC inspection coverage measures for APDES major and non-major facilities are substantially below State and federal goals.

- **Finding 4-1:** DEC does not consistently take timely or appropriate enforcement actions.

- **Finding 5-1:** DEC does not complete a sufficient number of formal penalty actions to form a minimum SRF data set for a detailed evaluation of DEC's penalty development and settlement procedures and processes.

- **Finding 2-4:** DEC has performance issues adhering to and completing various APDES program commitments that are integral to the establishment and implementation of a vigorous compliance and enforcement program and to EPA's ability to conduct effective oversight of the DEC APDES compliance and enforcement program. These deficiencies include: the lack of a statewide pretreatment survey; guidance and standard operating procedures related to compliance evaluations of major facilities; procedures on how DEC and the Department of Law will coordinate on cases; and cross training internally within DEC and with external State and Federal Agencies to meet program commitments.

Actions to Address Priority Issues – CWA

To address these priority APDES issues, EPA Region 10 has identified the following actions that DEC needs to take:

- Implement the comprehensive **Program Improvement Plan** contained in Appendix A to address areas needing state improvement, as detailed in the body of this report;
- As part of DEC's ongoing management of the APDES compliance and enforcement program, develop a **Compliance and Enforcement Resource Analysis** to identify personnel, training, and other resources needed to meet compliance monitoring requirements, implement timely and effective enforcement, and meet DEC program commitments;
- Conduct a **Statewide Pretreatment Survey** of significant industrial users (SIU);
- Evaluate and implement improved **standard operating procedures**[1] to meet goals for timely and appropriate enforcement; and
- Meet **performance benchmarks**, including: (i) complete six (6) specified formal enforcement actions currently in DEC's pipeline by March 30, 2015, and (ii) conduct 100 inspections in CY 2015. Subsequent compliance and enforcement benchmarks include (i) development, implementation, and monitoring of a robust case pipeline, and (ii) meeting requirements under the national NPDES Compliance Monitoring Strategy starting in 2016.

EPA Region 10 will continue to work closely with DEC and will assist, inform and provide guidance as the State carries out these actions. EPA realizes that DEC must prioritize efforts among development of procedures, guidance, analyses, etc., while continuing to carry out inspection and enforcement responsibilities. The overall Program Improvement Plan, developed in close coordination with DEC, lays out priorities and deadlines for DEC and EPA. In addition, EPA will continue to perform direct inspections and enforcement activities in Alaska.

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[1] Note that DEC uses the term Program Operating Guidelines (POGs) instead of Standard Operating Procedures (SOPs). The terms, POGs and SOPs, are basically used interchangeably in the text and appendices of this report.

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I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Water Act National Pollutant Discharge Elimination System
- Clean Air Act Stationary Sources (Title V)
- Resource Conservation and Recovery Act (RCRA) Subtitle C.

This review of Alaska programs does not include RCRA Subtitle C, as jurisdiction for this program in Alaska remains with EPA.

Reviews cover:

- **Data** — completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** — meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** — identification of violations, determination of significant noncompliance (SNC) for the CWA and RCRA programs and high priority violators (HPV) for the CAA program, and accuracy of compliance determinations
- **Enforcement** — timeliness and appropriateness, returning facilities to compliance
- **Penalties** — calculation including gravity and economic benefit components, assessment, and collection
- **Completion of Commitments** — completion of work products and commitments in other relevant agreements or documents, e.g. program descriptions, performance partnership agreements, memoranda of agreements, etc.

EPA conducts SRF reviews in three phases:

- Analyzing information from the national data systems in the form of data metrics and information related to completion of commitments
- Reviewing facility files and compiling file metrics
- Development of findings, recommendations and corrective actions

EPA builds consultation into the SRF to ensure that EPA and the State understand the causes of issues and agree, to the degree possible, on recommendations and corrective actions needed to address them. SRF reports capture the agreements developed during the review process in order to facilitate program improvements. EPA also uses the information in the reports to develop a better understanding of enforcement and compliance nationwide, and to identify issues that require a national response.

Reports provide factual information. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state's programs are typically reviewed once every four years. The first round of SRF reviews began in FY 2004. The third round of reviews began in FY 2013 and will continue through FY 2016. This is the third SRF review of DEC's Air program but only the first SRF review of DEC's APDES compliance and enforcement program.

II. SRF Review Process

Review period: Fiscal Year 2012

Key dates:

June 4, 2013 – Overall Kick-Off Letter sent to State
June 3, 2013 – Initial CAA Data Metric Analysis (DMA) and File Selection sent to State
June 20, 2013 – Initial CWA DMA and File Selection sent to State
June 17-21, 2013 – EPA conducted onsite CAA file reviews in Fairbanks and Anchorage
July 15-18, 2013 – EPA conducted onsite CWA file reviews in Anchorage
February 3, 2014 – Draft CAA Portion of SRF Report sent to State
April 1, 2014 – Draft CWA Portion of SRF Report sent to State
June 19-Sept 16, 2014 – EPA/DEC Collaboration on Corrective Actions and Timelines
December 1, 2014 – Combined CAA and CWA Report Finalized

State and EPA key contacts for review:

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Moses Cross, DEC Air Program
John Pavitt, EPA-R10-AOO, Air Reviewer
Rindy Ramos, EPA-R10, Air Reviewer
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Scott Downey, EPA-R10, Air Compliance Unit Manager
Sharon Morgan, DEC, Water Quality Program Manager
Charles Knapp, DEC, APDES Compliance and Enforcement Program Manager
Rick Cool, EPA-R10, APDES Reviewer
Robert Grandinetti, EPA-R10, APDES Reviewer
Jeff Kenknight, EPA-R10, NPDES Compliance Unit Manager
Christine Kelly, EPA-R10, SRF Coordinator
Lauris Davies, EPA-R10 OCE Associate Director

Review process: The SRF review process typically focuses on facility file evaluations, completion of commitments and reviews of data metrics from national data systems. This typical process was followed for review of DEC's Air program. However, this SRF review was the first SRF review of the DEC APDES compliance and enforcement program and DEC did not have full administrative and implementation authority over all APDES sectors in federal fiscal year 2012, the primary year reviewed in this report.

EPA Region 10 approved DEC's APDES program in October, 2008. EPA Region 10 transferred the NPDES program to the APDES program in four phases between October 2008 and October 2012. Phase I (e.g., domestic discharges, timber harvesting and seafood processing sectors) was transferred in October 2008. Phase II (e.g., stormwater program, pretreatment and federal facilities) was transferred in October 2009. Phase III (mining sector) was transferred in October 2010. Finally, Phase IV (e.g., oil and gas sector) was transferred in October 2012.

In light of this relatively new APDES program and its phased program implementation, this SRF review of APDES included additional evaluations of various DEC APDES program

commitments that are integral and foundational bases of a comprehensive DEC APDES program framework and that affect EPA's ability to conduct effective oversight.

The most significant APDES program issues identified in this SRF review process were discussed with DEC prior to the SRF FY 2012 review period. For example, in February 2010, EPA met with DEC to raise concerns about DEC's Phase I inspection coverage rates and DEC's procedures for initiating formal enforcement actions. This joint meeting was held to discuss the timing of the Phase III and IV transfers. EPA also discussed the SRF process during this meeting. These issues and related matters were also discussed between EPA and DEC in subsequent routine conference calls and periodic face-to-face meetings.

As context for implementation of SRF recommendations and corrective actions developed through this SRF review process, EPA's Clean Water Act (CWA) Action Plan includes efforts to build robust and credible regional and state compliance and enforcement programs, and to ensure consistent enforcement actions across states to maintain a fair and level playing field for the regulated community and the public.

DEC's increased efforts to implement SRF recommendations and corrective actions as a means to build a rigorous and credible APDES compliance and enforcement programs in Alaska is particularly critical at this time. The EPA Office of Inspector General's (OIG) report, *EPA Must Improve Oversight of State Enforcement*, (Report No. 12-P-0113, December 9, 2011), found the CWA enforcement programs in Alaska were underperforming. The OIG report found that EPA actions to date had not brought about improved performance in the DEC compliance and enforcement program. In response to the CWA Action Plan, the OIG report and this SRF review process, EPA and DEC will prioritize SRF recommendation efforts and use all available mechanisms to improve the performance of DEC's compliance and enforcement program.

Frozen OTIS data and State verification process: The APDES SRF review was complicated by a frozen OTIS data set and metrics analysis that did not include certain mandatory data and that did include some non-applicable data, including Phase IV oil and gas facilities that were not under DEC authority or administration in FY 2012. Despite DEC's efforts to correct data during the data verification process, significant data anomalies (e.g., inclusion of inapplicable permits within pre-frozen OTIS universes and counts, missing completed inspection data) were not successfully corrected and affected the subsequent frozen OTIS data metrics analyses. In an effort to promote accurate findings, EPA re-calculated applicable metrics using corrected universe and count data (e.g., eliminating Phase IV facilities). This report includes both original and re-calculated data set information

III. SRF Findings

Findings represent EPA's conclusions regarding state performance and are based on findings made during the data and/or file reviews and are also be informed by:

- Annual data metric reviews
- Follow-up conversations with state agency personnel
- Review of previous SRF reports for Air, DEC's Program Description for APDES, Memoranda of Agreement between EPA and DEC, and other data sources
- Additional information reviewed to determine an issue's severity and root causes

There are three categories of findings:

Meets or Exceeds Expectations: The SRF was established to define a base level or floor for enforcement program performance. This rating describes a situation where the base level is met and no performance deficiency is identified, or a state performs above national program expectations.

Area for State Attention: An activity, process, or policy that one or more SRF metrics show as a minor problem. Under most circumstances, the state should correct the issue without additional EPA oversight. EPA may make recommendations to improve performance, but EPA will not typically monitor these recommendations for completion between SRF reviews to the extent that is done for Areas of State Improvement.

Area for State Improvement: An activity, process, or policy that one or more SRF metrics show as a significant problem that the state is required to address. Recommendations and corrective actions should address root causes. These recommendations and corrective actions must have well-defined timelines and milestones for completion, and EPA will monitor them for completion between SRF reviews, including ongoing engagement with the State, as necessary.

Whenever a metric indicates a major performance issue, EPA will write up a finding of Area for State Improvement, regardless of other metric values pertaining to a particular element.

The relevant SRF metrics are listed within each finding. The following information is provided for each metric if directly applicable to the particular element, sub-element and finding:

- **Metric ID Number and Description:** The metric's SRF identification number and a description of what the metric measures.
- **Natl Goal:** The national goal, if applicable, of the metric, or the CMS commitment that the state has made.
- **Natl Avg:** The national average across all states, territories, and the District of Columbia.
- **State N:** For metrics expressed as percentages, the numerator.
- **State D:** The denominator.
- **State % or #:** The percentage, or if the metric is expressed as a whole number, the count.

Clean Air Act Findings

Element 1 — Data	
Finding 1-1	**Area for State Attention**
Summary	MDRs are not always correctly entered into AIRS Facility Subsystem (AFS).
Explanation	2b: 13 of the 25 files had a discrepancy between data in AFS and the source file. These discrepancies can be grouped into 3 main issues: *Issue #1*: Some source test dates were incorrectly entered into AFS. The date the source test was reviewed, instead of the date the test was conducted, was occasionally entered into AFS. Issue # 1 arises from former EPA policy and the Information Collection Request (ICR) that stipulates how to report stack test data. Prior to the change in the ICR, the date the stack test was reviewed was the date to enter in AFS. Now the AFS report date is the date the stack test was conducted. This issue is being addressed Region-wide. A letter from Region 10 to its 14 State and local air agency (LAA) data managers on August 6, 2013, provided guidance and clarification on this reporting requirement. Region 10's expectation is that all data managers will start to follow the guidance and clarification by October 1, 2013. Therefore, Region 10 considers this issue addressed. *Issue #2*: The Three Year Compliance Status by Quarter, as shown on the Detailed Facility Report (DFR), indicated that five sources were in violation (and meeting schedule). This "status" was an artifact from previous violations. The Historical Compliance History for the five sources should have shown the sources "in compliance". All five of the sources are/were no longer in violation and several had not been in violation for several years. Region 10 has requested that the compliance history for the files be updated. However, only EPA's AFS contractor in HQ can correct "Historical" compliance status. *Issue #3*: Metric 7b1 –Three Notices of Violation (NOVs) were issued for violations not considered High Priority Violations (non-HPVs). The compliance status in AFS was not changed for the NOVs or the NOVs were not entered in AFS as informal enforcement actions. Issue # 3 is being addressed at the Regional level. In 2004, EPA-R10

made a conscious decision to disinvest from continually updating compliance status for informal enforcement actions based on the Region's inadequate resources to accomplish the time-intensive entry of this one frequently changing data point, the relatively lesser value of this data point in program implementation, and the priority to focus resources on HPVs. Knowing that State and LAA programs in R10 were similarly challenged to provide data entry resources, R10 did not advocate for continual update of compliance status for informal actions by States or LAAs. In FFY 2013, EPA-OECA required R10 to develop a plan to address this data deficiency; Region 10 agreed. R10 has taken responsibility for this practice, developed a plan to address the issue, and sent a letter to all 14 of the Region's data managers informing them of a change in Region 10's policy regarding the Minimum Data Requirement (MDR) to enter the "compliance status" information of a source into the AFS even when a violation is a non-HPV violation. Region 10 is working with each of the 14 CAA agencies individually on this issue as each agency has a unique set of circumstances that affect this issue.

For Alaska, DEC determined that the Universal Interface (UI) program which it uses to upload data into AFS would not support handling all the data elements required under the Federally Reportable Violations (FRV) policy. Furthermore, DEC's data system (Air Tools) needs to be upgraded to accommodate this and other changes coming from EPA. In addition and related to this issue is a major modernization of EPA's AFS data system, which is currently occurring and not expected to be completed until October 1, 2014.

Because DEC is already aware of the issue, and in light of the large scale data system changes planned for FY 14, EPA considers this an issue for "State Attention" to be addressed as part of AFS modernization and any necessary subsequent state data system upgrades. DEC is intending to address this issue after AFS modernization is complete and any technical interface issues are better understood. EPA will assess DEC's progress in this area as part of the next SRF review.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Accurate MDR data in AFS	100%		12	25	48%
7b1 Violations reported per informal actions	100%	59.7%	2	5	40%
7b3 Violations reported per HPV identified	100%	53.4%	2	2	100%

State Response

(See DEC response letter provided in Appendix B.)

Recommendation

None required.

Element 1 — Data	
Finding 1-2	**Meets or Exceeds Expectations**
Summary	Generally, MDRs are timely entered into AFS.
Explanation	Alaska meets the National Goal of 100% for timely reporting of stack test dates and results. They are below the National Goal of 100% but above the National Average of 73.7% with 90% for timely reporting of enforcement MDRs. They are below the National Goal of 100% and the National Average of 80% with 78.25% for the timely reporting of compliance monitoring MDRs. Region 10's data manager enters Alaska's HPV MDRs into AFS. HPV updates are sent to the Region on a monthly basis. No untimely HPV data entries were made in the review year (federal fiscal year 2012). The MDR to enter compliance monitoring and enforcement activities into AFS is 60 days. Because Alaska uploads to AFS on a 60 day frequency utilizing the UI, their timeliness of data entry is affected. To avoid missing the 60-day timeframe for some data entry, EPA suggests that DEC consider increasing data upload frequency if its current data system (Air Tools) can be upgraded.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
3a2 Untimely entry of HPV determinations	0		0	0	0%
3b1 Timely reporting of compliance monitoring MDRs	100%	80%	258	330	78.25
3b2 Timely reporting of stack test dates and results	100%	73.1%	198	198	100%
3b3 Timely reporting of enforcement MDRs	100%	73.7%	9	10	90%

State Response	(See DEC response letter provided in Appendix B.)
Recommendation	None required.

Element 2 — Inspections	
Finding 2-1	**Area for State Attention**
Summary	All of the FCEs reviewed met the requirements delineated in EPA's Compliance Monitoring Strategy (CMS) Policy and DEC adequately met its FCE commitment.
Explanation	EPA reviewers reviewed 19 files which fully documented FCEs. The reviewers were able to determine the compliance status of all 19 sources. The SRF frozen data indicate that Alaska conducted 89 FCEs at major sources and committed to conduct 91 (97.9%). This percentage is below the National Goal of 100% but above the National Average of 90.4%. The SRF frozen data indicate that Alaska conducted 27 FCEs at SM80 sources and committed to conduct 30 (90.0%). This percentage is slightly below the National Average of 93.4%. <u>5e: Review of Title V annual compliance certifications</u>: The Title V Universe for Alaska has historically been a data issue as a result of the "open" Air Program Code Title V in AFS for sources which originally received a General Permit under the Title V Program. Alaska has since re-permitted and re-classified their Major Universe in AFS. The universe of sources under metric 5e (373) is inflated and reflects "true" Title V certifications plus annual reports from the re-classified Title V sources. The State has been working with Region 10 to correct this problem. An extensive data cleanup has been performed by the State and, as of November 4, 2013, the "true" universe has been determined to be 145 sources. Factoring in the "correct" universe of Title V sources required to submit Title V certification (145) and the number of Title V certifications reviewed (129), the "true" percentage is 89.0%

Relevant metrics	**Metric ID Number and Description**	**Natl Goal**	**Natl Avg**	**State N**	**State D**	**State % or #**
	5a FCE coverage: majors and mega-sites	100%	90.4%	89	91	97.8%
	5b FCE coverage: SM-80s	100%	93.4%	27	30	90%
	5c FCE coverage: synthetic minors (non-SM 80s) that are part of CMS plan	100%	63.8%	NA	NA	NA
	5d FCE coverage: minor facilities that are part of CMS plan	100%	26.7%	NA	NA	NA
	5e Review of Title V annual compliance certifications	100%	81.8%	129	373 (145)	34.6% (89.0%)
	6a Documentation of FCE elements	100%		19	19	100.0%
	6b Compliance monitoring reports reviewed that provide sufficient documentation to determine facility compliance	100%		20	20	100%
State Response	(See DEC response letter provided in Appendix B.)					
Recommendation	None required.					

Element 3 — Violations	
Finding 3-1	**Meets or Exceeds Expectations**
Summary	Alaska makes accurate violation and HPV compliance determinations.
Explanation	Twenty-five files were reviewed onsite. Based on the Compliance Monitoring Reports and other documentation in the files, the State made accurate compliance determinations. Compliance determinations were accurately reported into AFS except for four determinations. On four occasions either non-HPV violations (NOVs) were not entered into AFS or their compliance status was not changed to 'in violation.' See Finding 1-1 for more details.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
7a Accuracy of compliance determinations	100%		25	25	100%
8a HPV discovery rate at majors	Review Indicator	4.3%	2	151	1.3%
8c Accuracy of HPV determinations	100%		12	12	100%

State Response	(See DEC response letter provided in Appendix B.)
Recommendation	None required.

Element 4 — Enforcement	
Finding 4-1	**Area for State Attention**
Summary	HPVs are appropriately addressed but not always timely.
Explanation	Three files reviewed contained an HPV activity. In addition, two non-HPV violations that were addressed with a formal enforcement action were reviewed. All five violations were appropriately addressed and either were put on an enforceable compliance schedule or had already returned to compliance. 10a Timely Action Taken to Address HPVs (50%): One of the HPV violations (AFS# 0209000007) was for a failure to obtain a PSD permit. According to EPA's HPV policy, violations for failure to obtain a PSD permit are not subject to the timeliness requirement of the policy. A second HPV violation (AFS# 0226100031) was addressed within 270 days and met the timeliness requirement. This violation was addressed by day 165. A third file reviewed (AFS# 0218500133) contained an HPV that was addressed by day 442, which exceeds the 270 day guideline in EPA's HPV policy. Staff turnover, the inexperience of the case officer with the settlement process, and delays in receiving requested information from the source all contributed to the State's inability to address this particular HPV within 270 days. Because the sample size is so small (only two files), Region 10 does not believe the percentage of HPVs timely addressed (i.e., 50%) should be considered representative of the State's performance. Therefore, the finding for this element should be "Area for State Attention." Following the previous SRF review when timeliness was an issue, DEC conducted a Root Cause Analysis on timeliness for Air Quality Title V – HPV Enforcement Cases. To ensure routine timely action, EPA suggests that DEC review the recommendations developed as an outcome of its root cause analysis to determine whether new or additional recommendations should be implemented. EPA will continue to conduct regular HPV calls with DEC, in accordance with the national HPV policy. 3b3 Timely Reporting of Enforcement Minimum Data Requirements: Goal = 100%, Nat. Avg. = 73.7%. Alaska = 90% (9/10). Alaska uploads

	through the UI every other month, so a small subset of MDRs are not always entered into AFS within 60 days. As with Finding 1-2 above, DEC might consider increasing data upload frequency if its current data system can accommodate it.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified timeframe	100%		5	5	100%
10a Timely action taken to address HPVs	Review Indicator		1	2	50.0%
10b Appropriate enforcement responses for HPVs	100%		2	2	100%

State Response	(See DEC response letter provided in Appendix B.)
Recommendation	None required.

Element 5 — Penalties	
Finding 5-1	**Meets or Exceeds Expectations**
Summary	Alaska documents any adjustments made to assessed penalties and documents penalties paid.
Explanation	The six files that contained a penalty action all included gravity and economic benefit as appropriate. The State uses EPA's BEN model in assessing economic benefit. Of the six penalty files, one source had the same amount for the final penalty as for the initial amount assessed. Of the remaining five files, one did not document the difference between the initial penalty calculated and the final penalty, but all the others did. For one source, a penalty assessed in FY 2012 was paid in FY 2013, and the difference between the initial and final penalties was documented.
Relevant metrics	See table below
State Response	(See DEC response letter provided in Appendix B.)
Recommendation	None required.

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a Penalty calculations include gravity and economic benefit	100%		6	6	100%
12a Documentation on difference between initial and final penalty	100%		4	5	80%
12b Penalties collected	100%		6	6	100%

Clean Water Act Findings

Element 1 — Data: Files and Data Bases Where Data Are Accurately Reflected in National Data Systems	
Finding 1-1	**Area for State Attention**
Summary	The State meets expectations with regard to limited file reviews. However, the State does not meet expectations for mandatory national data base accuracy with regard to inspection data entries and accuracy of national data bases used for data metrics analyses.
Explanation	Finding 1-1 focuses on Metric 2b, data accuracy within the national data system. This finding is based on three data accuracy elements: (1) file reviews; (2) inspection data omissions in the frozen OTIS data; and (3) inclusion of inapplicable permits in various frozen OTIS data universes and counts. In regard to Metric 2b and for three of the 28 files reviewed, the mandatory data were not accurately reflected in OTIS, the national data system. For example, data inaccuracies included a missing entry for a completed informal enforcement action and missing entries for received documents. Metrics 5a1, 5b1, 5b2, 7d1, 7f1, and 8a2 address data related to inspections and violations. The frozen OTIS universes and counts contained inapplicable facilities and omitted inspection data.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
2b Files reviewed where data are accurately reflected in the national data system	100%	----	25	28	89%

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	Program Improvement Plan – Appendix A: EPA and DEC have developed an overall Program Improvement Plan, as described in detail in Appendix A, to address specific identified findings in this Report. While the file review process generally demonstrates data entry accuracy meeting expectations, there are significant problems with inspection data omissions and inapplicable facilities in the frozen OTIS data that need improvement. DEC has proposed several Program Operating Guidelines (POGs) that are included in the Program Improvement Plan which will address these

	remaining data accuracy issues. (Note: DEC's use of the term, POG, is similar to EPA's use of the term, Standard Operating Procedure or SOP. These two terms are basically used interchangeably throughout this report and its appendices.) EPA will monitor the drafting and implementation of these POGs and work closely with DEC to ensure future state data verification processes related to pre-frozen OTIS/ECHO data are successfully implemented to promote accurate data for future data metric analyses.

Element 1 — Data: Completeness of Data Entry on Major Permit Limits and Discharge Monitoring Reports (DMRs)	
Finding 1-2	**Meets or Exceeds Expectations**
Summary	The State meets or exceeds expectations regarding completeness of permit limit data entry for major facilities (Metric 1b1) and meets or exceeds expectations regarding completeness of discharge monitoring report data entry rates for major facilities (Metric 1b2).
Explanation	Finding 1-2 focuses on Metrics 1b1 and 1b2, the completeness of data entry on major permit limits and discharge monitoring reports (DMRs). The frozen OTIS universe derived from ICIS-NPDES contained seven Phase IV facilities that were not administered by the State in FY 2012. In addition, DEC submitted comments on the draft SRF report that identified three permits under the Metric 1b1 universe that were not applicable under that metric. Metric 1b1 results are not derived from EPA file reviews; instead these three facilities should have been removed during the state verification process of the pre-frozen data. Excluding the Phase IV and other inapplicable facilities, the State had a 100% rate for permit limit data entry for major facilities using corrected OTIS data. A similar correction to Metric 1b2 was made (i.e., removal of the Phase IV facilities) but because the State entered all received DMRs, the State still had a 100% rate for DMR entry for major facilities.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
1b1 Permit limit rate for major facilities	>95%	98.3%	26	26	100%
1b2 DMR entry rate for major facilities	>95%	97.9%	723	723	100%

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	None required.

Element 2 — Inspection Commitments: Inspection Coverage of NPDES Major Facilities	
Finding 2-1	**Area for State Improvement**
Summary	The State's inspection coverage for NPDES major facilities under individual and general permits is substantially below the State's APDES commitments and EPA and State Compliance Monitoring Strategy (CMS) goals.
Explanation	Finding 2-1 focuses on Metric 5a1, inspection coverage of NPDES major facilities under individual and general permits. In 2008, the State committed to inspect annually all facilities classified as a major discharger, whether covered under an individual or general permit. *See* State's Amended Final [APDES] Program Application (approved 2008), APDES Program Description (Final Oct. 29, 2008), Section 9.1.3. In 2007, EPA revised the national goal for the major facility inspection measure to ensure one comprehensive inspection of every major facility every two years. DEC's CMS annual inspection plan submissions for CYs 2010, 2011 and 2012 adopted the revised national goal of an inspection of a major facility once every two years. Row A below reflects the State's measure based on the frozen OTIS data for FY 2012, which incorrectly include data on Phase IV facilities. (See explanation on page 8.) Row B reflects the correction to eliminate 10 Phase IV facilities from the universe. Rows A and B reflect inspection coverage rates for FY 2012 using only the frozen OTIS data. To assess attainment of the current CMS goal of 100% inspection coverage of major facilities every 2 years, EPA reviewed data available for 2-year periods. DEC implements its CMS inspection plan on a calendar year basis, not a federal fiscal year. Available data indicate that the State has not inspected major facilities under its administrative authority at least once every other year during the CY 2010-2012 time period. Row C represents the two-year, CYs 2011-2012 measure of 67.4% based on DEC submissions. Based on an ICIS data pull, the CYs 2011-2012 measure was 39.1%. Row D represents the two-year, CYs 2010-2011 measure of 50% based on DEC submissions. None of these measures meets the CMS goal of 100% coverage every 2 years. Based on information from DEC, the causes of inspection coverage deficiencies in Findings 2-1, 2-2 and 2-3 include, in part, the lack of SOPs and guidance to reliably meet DEC's inspection commitments and the

EPA/DEC CMS goals. DEC has also noted that unique travel challenges in Alaska, where most facilities are only accessible via boat or plane, increase the amount of time required for many inspections.

In addition to these DEC-identified issues, EPA is concerned that DEC does not have sufficient inspection personnel, given the number of permitted facilities and resultant CMS demands, as well as the fact that these same inspectors are also the case officers for informal and formal enforcement. Although DEC has added a few positions since assuming NPDES authorization in 2008, EPA estimates that even when all positions are fully staffed and trained, DEC will lack inspector capacity to meet CMS goals.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
A: 5a1 Inspection coverage of NPDES majors – Frozen OTIS Data – FY 2012 Only	---	57.6%	12	58	20.7%
B: 5a1 Inspection coverage of NPDES majors – Corrected Frozen OTIS Data – FY 2012 Only	---	57.6%	12	48	25.0%
C: 5a1 Inspection coverage of NPDES majors – CYs 2011-2012 – DEC Submissions	100%	---	31	46	67.4%
E: 5a1 Inspection coverage of NPDES majors – CYs 2010-2011 – DEC Submissions	100%	---	19	38	50%

State Response

(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)

Recommendation

The recommendations for Findings 2-1, 2-2 and 2-3 (partially) are combined and addressed in the recommendations below, and are reflected in the Performance Improvement Plan in Appendix A.

Compliance and Enforcement Resource Analysis. DEC will conduct a resource analysis of the APDES compliance and enforcement program staff resources and supporting resources that are needed to meet EPA NPDES CMS inspection goals for all APDES facility sectors, to implement timely and effective enforcement, and to meet DEC Program Description commitments. Because DEC has experienced significant turnover in their APDES staff in 2013/2014, and is hiring and training new staff at the time of this final report, EPA recommends that this resource analysis be conducted on the following schedule:

- August 1, 2015 – Initiate resource analysis
- November 1, 2015 – Submit resource analysis to EPA as a component of DEC's draft Compliance Monitoring Strategy for 2016.

The Resource Analysis should include the following elements, at a

minimum:

1. Current and future projected compliance workloads, including inspections to meet EPA CMS goals based on existing and projected permitted facility universes;
2. Current and future projected enforcement workloads for a vigorous compliance and enforcement program (timely and appropriate enforcement that includes formal enforcement actions);
3. Any current/projected workloads associated with state program work (non-APDES) that are implemented by APDES compliance and enforcement staff;
4. Impacts of any limitations on APDES staff (gaps in training, limits on types of work based on Position Classification, etc.); and
5. Analysis and estimate of staff positions (FTEs) and supporting resources (travel, sampling, training, etc.) necessary to meet APDES compliance and enforcement program commitments and CMS goals, considering the elements listed above.

Inspection Plans and Performance Benchmarks for 2015 and beyond.

- **2015:** Due to the high turnover in DEC's inspection staff in 2014, an interim inspection requirement has been agreed upon by EPA and DEC – i.e., DEC must complete at least 100 inspections in CY 2015, and include the goal of 100 inspections in its CY 2015 CMS inspection plan.
- **2016 and beyond:** After CY 2015 the State will submit annual inspection plans that meet all EPA NPDES CMS goals and DEC commitments for all APDES facility sectors and will complete levels of inspections in accordance with these annual inspection plans.

For Findings 2-1, 2-2 and 2-3, **EPA** actions include:

- Monitoring implementation of the DEC's annual CMS and inspection plans;
- Assistance, feedback and discussion with APDES managers on the resources analysis;
- Monitoring DEC results per the annual data metric analysis; and
- Conducting EPA-lead inspections in the State.

Element 2 — Inspection Commitments: Inspection Coverage of NPDES Non-Major Facilities Excluding Facilities Covered Under Metrics 4a1 – 4a11.	
Finding 2-2	**Area for State Improvement**
Summary	The State's inspection coverage for NPDES non-major facilities are substantially below the State's APDES commitments and EPA and State CMS goals.
Explanation	Finding 2-2 focuses on Metrics 5b1 and 5b2, inspection coverage of those NPDES non-major facilities often referred to as traditional non-major facilities or traditional minor facilities (i.e., excluding non-major facilities covered under Metrics 4a1 – 4a11, which are addressed in Finding 2-3). As part of the State's Amended Final [APDES] Program Application (approved 2008), the State committed to inspect all facilities classified as a minor discharger with an individual or general permit at least once every five years. DEC's CY 2010-2013 CMS inspection plans adopt the national goal of inspecting traditional minor facilities at least once every five years. Except as noted below, DEC's annual CMS submissions typically adopt an annual inspection goal of 20% of the specific traditional minor sector's universe (i.e., 20% per year reflecting the once-every-five-year cumulative or multi-year goal). Rows A and C below reflect Metrics 5b1 and 5b2 measures respectively based on the frozen OTIS data. Rows B and D reflect similar data corrected to eliminate inapplicable facilities. (See explanation on p. 8.) Because the values for Metrics 5b1 and 5b2 are so low, EPA conducted additional data analysis to assess whether the 2012 values are an anomaly or due to the phased authorization of the program or due to some specific sectors that are difficult to measure and inspect at a rate of 20% per year. EPA evaluated DEC's inspection coverage of the small wastewater treatment works (WTWs) and seafood processors sectors covered by general permits (GPs) because DEC has had inspection authority over these two sectors for over five years. The 333 facilities in these two sectors represent approximately 75% of all APDES traditional non-major facilities (excluding the non-major log transfer facilities and placer mine facilities discussed further below). If all 2013 inspections were completed as proposed, DEC's 5-year inspection coverage rate would have been approximately 55.9% compared to the 5-year goal of 100%. However, preliminary data indicate that DEC did not complete all the 2013 proposed inspections, thus driving their 5 year coverage rate lower than 55.9% for 5-year coverage of these two sectors.

In its annual CMS plans, DEC did not commit to 20% coverage of two large sectors, placer mining facilities and log transfer facilities. For its CY 2011 and 2012 CMS submissions, DEC indicated there are approximately 1000 *active* placer mining facilities at any time and asserted that an inspection plan meeting the 20% goal for just *active* operations would add a minimum of 200 inspections per year requiring a substantial increase in both personnel and travel dollars. Therefore, DEC's CY 2011 and 2012 CMS plans proposed the completion of five and 15 inspections respectively.

Similarly, DEC's CYs 2009-2013 CMS inspection plan submissions regarding log transfer facilities (LTFs) also deviated from DEC's general 20%-per-year goal by focusing inspection proposals only on *active* LTFs. During these years, DEC estimated that approximately six LTFs were *active* each year.

Based on these alternate CMS commitments by DEC, EPA evaluated DEC's general 20%-per-year goal for other traditional non-major facilities, excluding both the placer mining and LTF sectors. For FY 2012, inspection coverage for all other non-major facilities was 3.1% of the universe, not counting placer mining and LTF facilities.

EPA also assessed inspection coverage under DEC's alternate commitments for the placer mining and LTF sectors. Based on DEC's CY 2013 CMS submission, two LTFs will have been inspected in five years of DEC's oversight, or 33% of estimated *active* LTF sites based on DEC's estimate that 5-6 LTF facilities are active at any time. In five years and based on frozen OTIS data, DEC will have inspected 2.4% of the entire LTF sector.

For placer mine inspections, DEC inspection summary submissions indicate that approximately 27 placer mine inspections were conducted over a three year period, CYs 2011-2013. Based on that count, DEC's total cumulative inspection coverage rate for *active* placer mine facilities (using DEC's estimated universe of 1000 *active* facilities) for 2011-2013 is 2.7% and the average annual coverage rate for *active* placer mine facilities over three years is 0.9% per year.

This additional data analysis does not appear to show that low inspection coverage is due to 2012 being an anomaly or phased authorization or only certain large sectors.

Some causes of the inspection coverage deficiencies in this finding are summarized in Finding 2-1.

Relevant metrics	**Metric ID Number and Description**	**Natl Goal**	**Natl Avg**	**State N**	**State D**	**State % or #**
	A: 5b1 Inspection coverage of NPDES non-majors with individual permits – Frozen OTIS Data – FY 2012 Only	---	25.6%	2	32	6.3%
	B: 5b1 Inspection coverage of NPDES non-majors with individual permits – Corrected Frozen OTIS Data – FY 2012 Only	---	25.6%	2	21	9.5%
	C: 5b2 Inspection coverage of NPDES non-majors with general permits – Frozen OTIS Frozen Data – FY 2012 Only	---	5.9%	61	5572	1.1%
	D: 5b2 Inspection coverage of NPDES non-majors with general permits – Corrected Frozen OTIS Data – FY 2012 Only	---	5.9%	18	5204	0.3%
State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)					
Recommendation	The recommendations for Findings 2-1, 2-2 and 2-3 (partially) are combined and addressed in the recommendations under Finding 2-1.					

Element 2 — Inspection Commitments: Inspection Coverage of NPDES Facilities Under Metrics 4a1 – 4a11.	
Finding 2-3	**Area for State Improvement**
Summary	The following seven of the nine operative Metric 4a measures are identified as areas for State improvement: • Metric 4a1 – Pretreatment Inspections and Audits • Metric 4a2 – SIU Sampling Inspections • Metric 4a3 – POTW SIU Oversight • Metric 4a4 - CSO • Metric 4a5 - SSO • Metric 4a6 – Phase I MS4 • Metric 4a9 – Construction Stormwater Metrics 4a10 and 4a11, CAFOs, are not applicable because the State has no CAFOs. For the other two applicable 4a metrics: DEC exceeded expectations for Metric 4a8, industrial/MSGP stormwater inspections when comparing three years of completed inspections to the EPA CMS goal of 10% of the universe inspected per year. Adherence to CMS goals for Metric 4a7, Phase II MS4, is indeterminate at this time
Explanation	Finding 2-3 focuses on Metrics 4a1-4a11, that is inspection coverage of NPDES facilities covered under individual and general permits excluding major and non-major facilities covered under Metrics 5a1, 5b1 and 5b2. The explanations underlying the individual metric findings cannot always be easily represented by an inspection count (numerator) with a sector universe (denominator) given that some goals/commitments are cumulative or multi-year based; thus, inspection plans may vary considerably year to year. To the extent practical and reasonable, numeric comparisons for some Metric 4a findings are included below. More detailed explanations and related data regarding these various metric determinations are found in Appendix D. Some causes of the inspection coverage deficiencies in this finding are summarized in Finding 2-1. Some of the causes of inspection-related deficiencies for pretreatment related matters are summarized in Finding 2-4 (*see also* Appendix E, Parts A-D).

Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
4a2 Significant Industrial User inspections for SIUs discharging to non-authorized POTWs (10/31/09 – 5/5/12)	100%		1	6	17%
4a4 Major CSO inspections – one inspection every 3 years	100%		1	2	50%
4a6 Phase I MS4 audits or inspections	100%		1	2	50%
4a8 Industrial stormwater inspections CYs 2011 and 2012 – Comparison with DEC CMS annual goals	100%		81	114	71%
4a9 Phase I and II stormwater construction inspections CYs 2011 and 2012 – Comparison with projected DEC CMS annual goals. See Appendix D.	100%		66	107	62%

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	The recommendations for Findings 2-1, 2-2 and 2-3 (partially) are combined and addressed in the recommendations under Finding 2-1.

Element 2 — Adherence To and Completion of Program Commitments	
Finding 2-4	**Area for State Improvement**
Summary	Metric 4b assesses completion and implementation of program commitments other than CMS commitments. Many key APDES program commitments beyond CMS commitments have not been met. Several of these commitments are vital to DEC's ability to conduct a robust and efficient APDES program and to EPA's ability to perform effective oversight of the program.
Explanation	Finding 2-4 addresses Metric 4b, which assesses completion and implementation of program commitments other than CMS commitments. EPA assessed commitments found in the APDES Program Description, which identified key needs for an effective and efficient program, as well as various DEC/EPA agreements regarding the APDES program (e.g., the APDES authorizing memorandum of agreement, Performance Partnership Agreements, Performance Partnership Grants, the integrated work plan). Appendix E contains detailed explanations of several key commitments. Relevant commitments that have not been completed or implemented include the following: • State-wide survey of industrial users for purposes of determining significant industrial users (SIUs) for pretreatment, necessary for adequately planning and implementing sufficient annual SIU sampling inspections (*See* App. E, Parts A-B); • POTW pretreatment program oversight procedures and DEC pretreatment inspection and sampling plans (*See* App. E, Parts C-D); • Written procedures between DEC and the Alaska Department of Law (DOL) to facilitate efficient, effective, and well-documented compliance review and enforcement implementation actions (*See* App. E., Part J); • Annual compliance evaluations of major facilities and DROPS database tracking of facility compliance, including tracking of required facility submittals or corrective actions resulting from inspections or enforcement actions (*See* App. E, Parts E-F); • Use of DEC's risk-based inspection ranking model to develop annual inspection reports in part because DROPS has not been set up yet to accept the relevant data that is needed to generate the facility-specific risk-based reports (*See* App. E., Part G); • Routinely making the requisite submittals to EPA regarding completed enforcement actions and facility violations (*See* App. E., Parts L-M); • Cross-training staff internally within DEC and staff in external

	State and Federal agencies in order to increase the APDES program's effectiveness in the field (*See* App. E, Part K); and
	• Timely enforcement regarding annual report submission violations under placer mine general permits (*See* App. E., Part N).
	
	In discussions between EPA and DEC regarding this SRF review and the findings in the draft SRF report, DEC gave assurances that:
	• Some of these commitments have already been addressed;
	• Other commitments are expected to be addressed by the end of CY 2014;
	  o For example, DEC stated in its response comments to the draft SRF report that it was developing the compliance module in DROPS, including the ability to track required facility submittals. DEC expected the compliance module to be in production by July 31, 2014.
	• And in a few cases, the potential use of an activity envisioned and described in the 2008 Program Description was being re-evaluated.
	  o For example, DEC is assessing whether to use DROPs or some other option for risk-based inspection ranking.
	
	Another deviation from DEC commitments and national NPDES guidance that was noted during the review was the use of a post inspection letter rather than a formal inspection report. *See* App. E., Part H. However, DEC subsequently provided assurances that this had been a seldom used practice that has since been corrected. (See DEC comments on draft SRF report in Appendix C.).

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	As noted earlier in this SRF report, EPA and DEC have developed an overall Program Improvement Plan (PIP), included in Appendix A. In response to the findings here, the PIP identifies the action items, tasks, timelines and critical path schedules to address non-CMS program commitment issues and related recommendations as noted in Appendix E, including: • Annual Major Facility Permit Compliance Evaluations (App. E, Part E) • DEC/DOL SOPs (App. E, Part J), referred to as Program Operating Guidelines (POGs) in Appendix A • Cross-Training (App. E, Part K) EPA and DEC have also agreed on alternative procedures to address transmission of copies of enforcement actions and DEC's quarterly

requirement to submit facility violation information to EPA as follows:

- Transmit copies of enforcement actions (App. E, Part L). DEC will provide copies to EPA of all enforcement actions ranging from compliance letters to administrative and judicial actions.
- Provide quarterly written summaries to EPA of facility specific violations and enforcement responses (App. E, Part M). Until DROPS can be used to provide violation summary information, DEC will upload to a FTP drop box accessible to EPA on a quarterly basis, copies of all inspection reports and all other documentation prepared during compliance file reviews documenting the details of facility specific violations (e.g., violation descriptions, dates of violation, enforcement response, date of enforcement response).
- As noted in the PIP, by September 30, 2015, DEC will provide to EPA a written summary explaining the status of DROPS's capability to perform the tasks identified in the Program Description (PD) (including but not limited to Sections 9.1 and 9.1.3 improvements) and the Memorandum of Agreement (MOA), Section 6.03. If applicable, DEC will also include a plan (including timelines) for any necessary modifications or upgrades to DROPS in order to perform the tasks identified in the PD and MOA. If DEC is deviating or will deviate from the uses of DROPS as identified in the PD, the summary should explain the reasons and identify the alternative procedures/mechanisms that will be substituted.

The PIP also includes specific follow-up steps related to the State-Wide Pretreatment Industrial Survey and Pretreatment Program SOPs (App. E, Parts A-D), referred to as POGs in Appendix A. In summary, by June 30, 2015, DEC shall complete a state-wide industrial user (IU) survey in non-delegated POTWs and have made final SIU determinations. Interim milestones are as follows:

1. By December 5, 2014, DEC shall submit a survey plan to EPA for review and comment that includes the state-wide survey methods (including the factors and methods used to identify and target IUs state-wide) and a critical path schedule with interim deadlines to meet the final June 2015 deadline. The plan must include a detailed timeline and procedures for DEC's periodic review and updating of the initial IU inventory.

2. By December 5, 2014, DEC shall submit to EPA a prioritized list of SOPs/POGs needed to implement its pretreatment program consistent with Program Description commitments. These

SOPs/POGs must include the inspection and sampling plan for POTW audits/PCIs and IU inspections.

3. By June 30, 2015, DEC shall complete development and implementation of SOPs/POGs to implement its pretreatment program consistent with Program Description commitments. These SOPs/POGs must include the inspection and sampling plan for POTW audits/PCIs and IU inspections.

4. By June 30, 2015, DEC shall submit its SIU determinations, including the list of SIUs that will be included in DEC's CY 2016 CMS inspection plans, and its pretreatment program SOPs/POGs to EPA.

Element 2 — Inspections: Timeliness and Sufficiency of Inspection Reports	
Finding 2-5	**Area for State Improvement - Report Timeliness**
Summary	The State's performance regarding the timeliness of inspection report completion is an area for state improvement.
Explanation	Finding 2-5 focuses on Metric 6b, the timeliness of inspection report completion. Metric 6a, the completeness and sufficiency of inspection reports to determine compliance at the facility, was also assessed. The quality of documentation in State inspection reports is generally good. The State meets expectations for the completeness and sufficiency of inspection reports to determine facility compliance. In regard to timeliness, the State's goal is to complete and transmit a final inspection report to the inspected facility's responsible party within 30 days of completion of a comprehensive evaluation inspection and within 45 days of a compliance sampling inspection. This State goal is consistent with EPA policy. For the files reviewed, DEC's average time for completion of inspection reports was 86 days.
Relevant metrics	
State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	Program Improvement Plan – Appendix A. The PIP identifies the action items, tasks, timelines and critical path schedules that DEC will implement to address the inspection report timeliness issues identified in this finding, including development of inspection report templates, and inspection SOPs/POGs.

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
6a Inspection reports complete and sufficient to determine compliance at the facility	100%		17	18	94.4%
6b Inspection reports completed within prescribed timeframe	100%		4	17	23.5%

Element 3 — Violations	
Finding 3-1	**Area for State Attention**
Summary	The State's accuracy in compliance determinations, Metric 7e, based on inspection reports is an area for state attention.
Explanation	Finding 3-1 focuses on the accuracy of the State's violation and compliance determinations based on inspection reports. Metric 7e, inspection reports reviewed that led to accurate compliance determinations, is an area for state attention. Three of the16 files reviewed were inadequate. Single event violations (SEVs) identified in two inspection reports were not included in enforcement documents (e.g., NOVs) that were issued based on the inspection reports. A third file contained inconsistencies in documentation of inspection results. *See* Row D. Other metrics were reviewed and evaluated. Metric 7a1 identified only one major facility (Anchorage/ADOT MS4) with an SEV reported in ICIS based on non-automated violations arising from inspections and compliance monitoring. The SRF file review confirmed that the SEV had been correctly determined as non-significant noncompliance. Metric 8c is not applicable because there was no reportable SNC. *See* Rows A, H and I. Metric 7d1, as reflected in the frozen OTIS data, contained inapplicable facilities. The corrected Metric 7d1 is 46.4%. *See* Rows B and C. Metrics 7f1 and 7g1 are for data verification purposes in deciding file reviews. Metric 7f1 as reflected in the frozen OTIS data contained inapplicable facilities. Row E reflects corrected data. Metric 8a2, the percentage of major facilities in SNC, as reflected in the frozen OTIS data contained inapplicable facilities. The corrected Metric 8a2 is 6.25%. *See* Row G. Metric 8b1, the accuracy and timeliness of significant noncompliance (SNC) determinations, was also assessed. The State met expectations with regard to the only facility under this metric where the appropriate SNC/Non-SNC determination was made on identified SEVs. *See* Row H.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
A: 7a1 Number of major facilities with single event violations	---	---	---	---	1
B: 7d1 Major facilities in noncompliance – Frozen OTIS Data	---	60.3%	18	36	50%

	C: 7d1 Major facilities in noncompliance – Corrected Frozen OTIS Data	---	60.3%	13	28	46.4%
	D: 7e Inspection reports reviewed that led to an accurate compliance determination	100%	---	13	16	81.3%
	E: 7f1 Non-major facilities in Category 1 noncompliance – Corrected Frozen OTIS Data	---	---	---	---	6
	F: 7g1 Non-major facilities in Category 2 noncompliance	---	---	---	---	19
	G: 8a2 Percentage of major facilities in SNC – Corrected Frozen OTIS Data	---	20.6%	3	48	6.25%
	H: 8b1 SEVs accurately identified as SNC or non-SNC at major facilities	100%	---	1	1	100%
	I: 8c Percentage of SEVs identified as SNC reported timely at major facilities	100%	---	0	0	NA

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	EPA and DEC discussed the need to ensure all inspection reports provide sufficient information and documentation to make a compliance determination and to ensure that all documented violations are included in the enforcement response. Under the PIP included as Appendix A, DEC has included actions to address this finding.

Element 4 — Enforcement	
Finding 4-1	**Area for State Improvement**
Summary	The State does not consistently take timely and appropriate enforcement actions. Many reviewed files did not contain adequate documentation regarding verification of a facility's compliance status after completion of the enforcement action. The State does not initiate and complete formal enforcement actions in a timely manner, impeding the ability to initiate and complete more enforcement actions over time.
Explanation	Finding 4-1 addresses Metrics 9a, 10a1 and 10b and focuses on DEC's effectiveness in taking timely and appropriate enforcement and using enforcement to return facilities to compliance. Finding 4-1 also focuses on the significant time to develop, initiate and complete formal enforcement cases. Because of the low number of penalty enforcement cases for the 2012 review year (see Finding 5-1), EPA also looked at the 5 year history of formal enforcement by DEC for APDES to assess program performance. The explanations below summarize EPA's findings based both on the file reviews and on the 5 year history of the program. **Background.** In the first five years of APDES program implementation (i.e., October 31, 2008 – October 31, 2013), DEC took a total of 10 formal enforcement actions against six facilities. Only three of these 10 formal actions included civil penalty settlements for past violations. One of the three penalty actions was completed using DEC's expedited settlement offer (ESO) process. The ESO process is a penalty-only settlement (i.e., no injunctive relief or related corrective action schedule). The other two penalty action settlements were incorporated into compliance orders by consent (COBCs) which typically also include corrective actions and related compliance schedules. Nine of the 10 formal actions used COBCs. Six of the nine COBCs were directed at two facilities. Two COBCs were directed at one seafood processing facility and four COBCs were directed at one major mining facility. The latest COBC with the major mining facility did not contain a specific, date-certain deadline for the facility's compliance with applicable APDES permit effluent limitations. **SRF File Reviews: Returning to Compliance.** EPA reviewed 18 files selected under the SRF protocol. Of these, eight files had adequate documentation to demonstrate that DEC's actions returned or will return

the facility to compliance.

Five of the 10 files with inadequate documentation used Notices of Violation (NOV) that did not conform to the requirements in DEC's Enforcement Manual (6th Edition, October 2005). DEC's Enforcement Manual states that the NOV contents must include specific time frames for the violator's submission of a written report explaining the steps that were required to correct the problem, the steps that will be taken to prevent similar violations in the future and a provision that establishes a clear time frame for clean-up or repair of the problem. Several of the reviewed files contained NOVs that did not request the violator to submit the requisite written reports, thus contributing to the lack of adequate documentation demonstrating the facility's return to compliance.

DEC's Enforcement Manual emphasizes the need to verify that all terms and conditions of the enforcement action have been met. The Enforcement Manual provides that subsequent to that verification, the staff should draft and, with a manager's signature, issue an Enforcement Closeout Letter. The Manual includes a closeout letter template. Several of the reviewed files did not have documentation verifying that all terms and conditions of the enforcement action had been completed. These reviewed files did not routinely contain DEC-generated documentation (e.g., close-out letter) that all enforcement action terms and conditions were met.

Background: Timely Enforcement. DEC's APDES Enforcement Response Guide (ERG) (May 2008) indicates there is no specific timeframe established to initiate and complete an enforcement response. The ERG further states the general guideline that within 45 days of identifying a violation, the appropriate response will be determined and the action initiated, or if not initiated, documented.

EPA guidance provides that administrating agencies are expected to take formal enforcement action before significant noncompliance is identified in a second calendar quarter official report (e.g., Quarterly Noncompliance Report). Historically, if the facility was identified in the second official report because the same significant noncompliance was continuing, the facility was placed on EPA's Watch List.[2] The Watch List tracked violations at major facilities that had not received timely and appropriate enforcement action.

EPA's review found that DEC's formal enforcement action procedures generally do not result in the completion of timely enforcement actions. Delays in timely completion of formal actions result in fewer actions being

[2] As of December 2013, EPA's Watch List is currently unavailable as EPA reviews options for its future use.

completed overall as staff prioritize limited time and resources for pending actions and delay development of new appropriate actions. Examples of formal cases with lengthy processes include the following:

- A formal penalty action against a seafood processing facility in development since September 2011;
- A formal penalty action against a large company's construction stormwater violations in development since late 2010;
- A formal action against a major POTW in development since July 2011;
- A formal action against a significant non-major POTW in development since January 2012.

DEC terminated the action against the seafood processing facility in November 2013 without assessing a penalty. At the time this SRF report was first drafted in Oct/Nov 2013, none of the other actions had progressed to formal settlement negotiations for compliance orders by consent (COBCs) or to an expedited settlement proposal.

SRF File Review: Timely Enforcement. Seven files reviewed by EPA had documentation showing the action did not adhere to the DEC ERG's guideline time frame. An eighth reviewed file did not contain documentation showing that the respondent replied to a DEC compliance notification email.

The frozen OTIS data for Metric 10a identified one major facility, but it is not applicable to the State. The EPA completed this enforcement action because it was initiated before the facility transferred to DEC's administration.

The following bullets identify some factors that contribute to or cause the situations identified in Elements 4 and 5:

- DEC has experienced high turnover in APDES compliance and enforcement personnel and appears to lack an adequate complement of trained inspectors to implement a vigorous C&E program that meets DEC commitments and EPA CMS goals.

- DEC has also noted that unique travel challenges in Alaska, where most facilities are only accessible via boat or plane, increase the amount of time required for many inspections.

- DEC's Program Description provides that a compliance committee (CC) meeting must be held in order for a case to be considered for a formal action. For approximately four years (i.e., 2008 - 2011), routine CC meetings were not scheduled or held.

- DEC's APDES Enforcement Response Guide does not contain specific timeframes or goals for initiating and completing enforcement actions.

- DEC C&E program capacity building has been delayed and prolonged, due in part to the lack of standard enforcement procedures and document templates.

- The DEC C&E program does not have adequate tools as originally committed to by DEC (e.g., DROPS database) to make compliance and enforcement action processes efficient. As part of the EPA/DEC collaboration process under this SRF review, DEC has prioritized completion of some of these tools to ensure more efficient enforcement processes.

- DEC has noted that its focus during the early years of the APDES program was on the permit backlog rather than compliance and enforcement.

Relevant metrics

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
9a Percentage of enforcement responses that return or will return source in violation to compliance	100%	---	8	18	44.4%
10a1 Major facilities with timely action as appropriate FY 2012	98%	---	0	0	NA
10b Enforcement responses reviewed that address violations in a timely and appropriate manner	100%	---	9	17	52.9%

State Response

(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)

Recommendation

Program Improvement Plan – Appendix A: The PIP identifies the action items, tasks, timelines and critical path schedules that DEC will implement to address, in part, the issues identified in this finding related to Metric 9a regarding enforcement responses that returned or will return a violating source to compliance These recommendations/corrective actions also apply as the Finding 5-1 recommendations.

While included in a summary manner in the PIP, the following significant actions are worth highlighting here:

- By January 1, 2015, **DEC shall complete three (3) formal enforcement actions** currently in DEC's pipeline, as identified by

EPA Region 10 and DEC.

- By March 31, 2015, **DEC shall complete an additional three (3) formal enforcement actions** currently in DEC's pipeline, as identified by EPA Region 10 and DEC.

- DEC will report case progress on a monthly basis to EPA, with an assessment on whether the action will be completed by the performance deadline. EPA's enforcement director and DEC's Division of Water director will include discussion of case progress as part of their monthly telephone check-ins. If at any time EPA determines there is a potential that an action will not be completed by the performance deadline, **EPA will discuss with DEC the need for a change in agency lead** for the case.

- By March 2015, EPA's enforcement director and DEC's water director will discuss and determine additional case conclusions beyond the six (6) identified above, targeted for completion by December 2015, and for calendar year 2016. Monthly check-in calls between the Directors will focus on DEC's progress in building, implementing, and maintaining a robust case pipeline, the efficacy of new SOPs in moving targeted cases to conclusion, and any gaps or needs such as resources, training, EPA assistance, etc.

- EPA will continue to initiate and complete EPA-lead enforcement cases in Alaska.

Other notable actions in the PIP for this finding include:

- **Re-establish DEC capacity for C&E.** Given the significant decrease in personnel, DEC will first focus on hiring and training new staff to full FTE levels authorized for the C&E portion of the APDES program. Though initially expecting full staffing levels by the end of CY 2014, DEC notified EPA in October-November 2014 that DEC had stayed recruitment to fill remaining vacancies in its APDES C&E program. As of November 7, 2014, DEC had at least two remaining environmental program specialist vacancies (one position in Fairbanks and one position in Juneau). EPA requests that DEC achieve full C&E staffing levels as soon as possible. By December 31, 2014, DEC shall notify EPA in writing of its plans and timing to fill remaining vacancies and a date-specific timetable for initiating recruitment and an aspirational deadline for filling all remaining C&E program vacancies.

- **Develop and Implement Enforcement Procedure SOPs/POGs**

that include timelines for the procedural steps and Time Frame Goals for completion of each type of enforcement action. DEC will develop and implement written SOPs/POGs that include timelines and time frame goals. Draft SOPs/POGs will be submitted to EPA no later than Dec 31, 2014, for EPA's review and comment. EPA will provide review and comment no later than Jan 15, 2015. SOPs/POGs are to be finalized by January 30, 2015. These SOPs/POGs are being developed in order to:

1. Improve timely initiation and completion of informal and formal enforcement actions within specific time frame goals, including actions using COBCs, compliance orders and ESOs;
2. Schedule routine compliance committee meetings for the purposes of formal action initiation, development and conclusion.
3. Develop a written escalation policy/guidance to assist staff in implementing the ERG and determining types of cases for formal action;
4. Develop written procedures on the use of the expedited settlement offer process, including the circumstances for its use;
5. Develop written procedures to ensure adherence to the ERG's range of responses based on identified fact circumstances and for response selection and penalty development taking into account initial date of violation and subsequent violation periods; and
6. Streamline and expedite internal review procedures with review timeframe goals and internal template forms.

- **Check-in/evaluation.** EPA and DEC agreed on the value of an overall check-in/evaluation that assesses the efficacy of APDES program operating guidelines (POGs) and SOPs, the efficiency of the inspection and enforcement processes, and the identification of any obstacles to full, efficient and effective performance of the APDES compliance and enforcement program. Because DEC is rebuilding their staff and initiating new processes, POGs and SOPs at the time of this final SRF report, **DEC will initiate this evaluation in January 2016** in order to allow time to implement SOPs/POGs and gain experience with new staff prior to conducting this evaluation. EPA will provide guidance/consultation on what this evaluation should entail, including the utility of conducting a LEAN (Kaizan) exercise. Any significant actions stemming from this evaluation will be captured in a subsequent Performance Partnership Agreement or Performance Partnership Grant.

Element 5 — Penalties	
Finding 5-1	**Area for State Improvement**
Summary	The State did not complete sufficient formal penalty actions for EPA to conduct a detailed evaluation of its penalty development and settlement documentation, procedures and history. This is an area for State improvement.
Explanation	Finding 5-1 addresses DEC's performance regarding the completion of a minimum number of penalty actions on an annual basis to conduct SRF review. DEC's initiation and completion of penalty actions is an area for State improvement. The State has taken three penalty actions in the first five years of the APDES program (i.e., October 31, 2008 – October 31, 2013). DEC completed two of its three penalty actions in FY 2012. DEC has not taken sufficient penalty actions in any one fiscal or calendar year in the past five years to provide the minimum number of penalty actions needed as a sufficient base of information to adequately assess DEC's performance regarding the substantive development and completion of penalty actions. The SRF file selection protocol expects file reviewers to select a minimum of five penalty actions for FY 2012 file selection and review. EPA could only select two penalty action files. For the two penalty actions that were reviewed, metrics 11a and 12b were assessed. Based on these two actions, DEC is meeting these metrics when a penalty action is taken. The two penalty actions included penalty calculations that considered gravity and economic benefit, and the files documented that the penalties had been collected. See Finding 4-1 for a discussion of some causes regarding initiation and completion of formal penalty actions.
Relevant metrics	

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
11a Penalty calculations reviewed that consider and include gravity and economic benefit	100%	---	2	2	100%
12b Penalties collected	100%	---	2	2	100%
Penalty Actions for SRF File Selection and Review	100%	---	2	5	40%

State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	The Recommendations/Corrective Actions for Finding 4-1 are incorporated here by reference.

Element 5 — Penalties	
Finding 5-2	**Metric 12a: Area for State Improvement**
Summary	One of the State's two penalty actions did not adequately document the difference between the initial and final assessed penalty.
Explanation	This Finding 5-2 focuses on Metric 12a, documentation of rationale for the final value assessed compared to the initial value assessed. One of two penalty actions in FY 2012 had adequate documentation explaining the rationale between the initial and final assessed penalty. DEC used its expedited settlement offer (ESO) process in the other action. The ESO process uses the authority and assistance of the Alaska Department of Law (DOL). DOL's ESO letter to the respondent offered a settlement penalty of $14,300. The action was settled for $12,000 but the DEC file contained no written rationale/explanation for DEC's departure from the initial assessed penalty of $14,300. The lack of documentation explaining the penalty differences is caused, in part, by the lack of DEC SOPs for its formal enforcement procedures, including the ESO process, and the lack of written procedures between DEC and DOL regarding the coordination of enforcement cases. *See e.g.,* Finding 2-4; Appendix E, Part J.
Relevant metrics	
State Response	(DEC's response letter, table of comments, and attachment are all contained in Appendix C.)
Recommendation	Program Improvement Plan – Appendix A. The PIP identifies the action items, tasks, timelines and critical path schedules that DEC will implement to address the issues identified in this finding regarding adequate documentation about the difference between the initial and final assessed penalty.

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State % or #
12a Documentation of the difference between initial and final penalty and rationale	100%	---	1	2	50%

APPENDICES

A: APDES Compliance and Enforcement Program Improvement Plan

B. DEC Comments on the Air portion of the Draft SRF Report

C. DEC Comments on the Water portion of the Draft SRF Report

D. Metric 4a Inspection Coverages

E. Metric 4b Program Commitments

APPENDIX A

APDES Compliance and Enforcement Program Improvement Plan

Priority	Program Operating Guidelines (POG)	Description	SRF Section Addressed
1	Noncompliance Response Decision Tree	A high-level decision tree to document the escalated response to noncompliance and the enforcement options available.	Not Applicable
1	Inspection Report and template	POG and template to document the format, content, and timelines for inspection report and Form 3560 completion and submittal to the Data Steward for entry into ICIS-NPDES consistent with APDES Program Description section 9.1.5. DEC will include in these POG/SOPs: (1) timeliness provisions for completion of inspection reports; (2) identification and reporting of single event violations (SEVs); (3) provisions for addressing accuracy of compliance determinations and inclusion of inspection report-identified violations in subsequent enforcement action documentation;	Element 1 - Finding 1-1 Element 2 - Finding 2-5 Element 3 - Finding 3-1 Element 4 - Finding 4-1
1	Compliance Committee and Template	POG to document the structure and process of the Compliance Committee, including frequency of meetings, and the responsibility of the members to determine the appropriate enforcement action in response to noncompliance.	Element 2, Finding 2-2
1	Compliance Letter and Template	POG and template to document the criteria for the use of a Compliance Letter in response to noncompliance and the process for review, approval, issuance, database entry, and tracking, including timeliness guidelines for each procedural step and time frame goals for completing Compliance Letters. This SOP should address consistent and complete enforcement file content (e.g., Form 3560s, DEC Enforcement Manual requirements such as enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to the DEC Enforcement Manual requirements for substantive provisions of compliance letters (e.g., Chap. 4, p. 4-2), including respondent submission of written report(s) explaining why violations occurred, corrective actions taken and to be taken with time frames, and steps that will be taken to prevent similar future violations.	Element 3 - Finding 3-1 Element 4 - Finding 4-1

1	Notice of Violation and Template	POG and template to document the criteria for the use of a Notice of Violation in response to noncompliance and the process for review, approval, issuance, database entry, and tracking, including timeliness guidelines for each procedural step and time frame goals for completing Notices of Violation. This SOP should address consistent and complete enforcement file content (e.g. Form 3560s, DEC Enforcement Manual requirements such as enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to the DEC Enforcement Manual requirements for substantive provisions of notices of violation (e.g., Chap. 4, p. 4-7), including respondent submission of written report(s) explaining why violations occurred, corrective actions taken and to be taken with time frames, and steps that will be taken to prevent similar future violations.	Element 3 - Finding 3-1 Element 4 - Finding 4-1
1	Expedited Settlement Offer / Expedited Settlement Agreement (ESO/ESA) and Templates	POG and templates to document the criteria for the use of an ESO/ESA in response to noncompliance and the process for review, approval, issuance, database entry, and tracking, including timeliness guidelines for each procedural step and time frame goals for completion of ESOs/ESAs. This SOP should address consistent and complete enforcement file content (e.g., Form 3560s, DEC Enforcement Manual requirements such as enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to any applicable DEC Enforcement Manual.	Element 4 - Finding 4-1
1	Settlement Agreement and Template	POG and template to document the criteria for the use of a Settlement Agreement in response to noncompliance and the process for review, approval, issuance, database entry, and tracking,including timeliness guidelines for each procedural step and time frame goals for completion of Settlement Agreements. This SOP should address consistent and complete enforcement file content (e.g., Form 3560s, DEC Enforcement Manual requirements such as enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to any applicable DEC Enforcement Manual requirements.	Element 4 - Finding 4-1

1	Compliance Order By Consent (COBC) and Template	POG and template to document the criteria for the use of a COBC in response to noncompliance and the process for review, approval, issuance, database entry, and tracking, including timeliness guidelines for each procedural step and time frame goals for completion of COBCs. This SOP should address consistent and complete enforcement file content (e.g., Form 3560s, DEC Enforcement Manual requirements like enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to any applicable DEC Enforcement Manual requirements.	Element 4 - Finding 4-1
1	Compliance Evaluation Procedure - Major Facilities	POG to document the steps to complete an annual major facility compliance evaluation in accordance with APDES Program Description section 9.1.1.	Element 2 - Finding 2-4
2	Complaint Handling Program Operating Guideline	POG to document how to respond, document, and forward complaints.	Not Applicable
2	24-hour Hotline	POG to document how to monitor the 24-hour noncompliance reporting hotline and to document the reported noncompliance.	Not Applicable
2	Noncompliance Reporting Inbox	POG to document how to monitor the noncompliance reporting electronic inbox, including tracking receipt of the five-day written notice.	Not Applicable
2	Phone call documentation	POG to document telephone conversations for inclusion in the facility file.	Not Applicable
2	Annual Report Reminder and Templates	POG and templates to document the timing, content, and procedure for Annual Report Reminder letters and escalated response to noncompliance.	Element 2 - Finding 2-4
2	Inspection Preparation	POG to document how to prepare for an inspection that will include elements such as trip planning; equipment selection; and facility file, compliance history, and complaints review.	Not Applicable
2	Compliance Order and Template	POG and template to document the criteria for the use of a Compliance Order in response to noncompliance and the process for review, approval, issuance, database entry, and tracking, including timeliness guidelines for each procedural step and time frame goals for completion of Compliance Orders. This SOP should address consistent and complete enforcement file content (e.g., Form 3560s, DEC Enforcement Manual requirements such as enforcement closeout letter), including documentation of Return to Compliance; and consistent adherence to any applicable DEC Enforcement Manual requirements.	Element 4 - Finding 4-1

2	Intra - Interagency Coordination	POG to document the process to cross-train and coordinate with non-program staff in order for the Compliance Program to take action based on non-program staffs' reports, observations, or sampling results in accordance with Program Description 9.1.4.	Element 2 -Finding 2-4
2	Department of Law (DOL), Assistant Attorney General (AAG) Request for Assistance	POG and template to document when and how to request DOL AAG assistance on an enforcement case. POG will also address how to coordinate with DOL/AAG on and timelines for the enforcement case pipeline, changing priorities, and forecasting resource needs.The POG/SOPs should consider appropriate penalty settlement documentation procedures for any DOL assistance or work related to DEC's expedited settlement offer procedures or other APDES settlement procedures and provision of such DOL documentation to DEC for facility activity files.	Element 2 - Finding 2-4
2	Unpermitted Facilities	POG to document how to enter unpermitted facilities in ICIS-NPDES and DROPS (state's database).	Not Applicable
2	Missing ICIS-NPDES Data Quarterly Report	POG to document the process, timing, format, and content to prepare a quarterly report of missing data required to be entered in ICIS-NPDES and the steps and time frames to ensure that missing data are entered. The POG will include procedures for ensuring mandatory data are accurate and timely entered into ICIS-NPDES (e.g., inspection entries).	Element 1 - Finding 1-1
2	Annual Data Verification Process	POG to document DEC's process for completing the national annual data verification for data used in EPA's Data Metric Analyses. The POG will include procedures for reviewing pre-frozen OTIS/ECHO data universes and counts and working with EPA to ensure accuracy of frozen OTIS/ECHO data.	Element 1 - Finding 1-1
2	Penalty Calculation and Settlement Procedures	POG to document penalty calculation methods and settlement procedures. The POG will include documentation explaining the rationale for differences between initial penalty calculations for settlement and the final penalty settlement and ensure there are appropriate penalty documentation procedures for any Department of Law assistance or work related to DEC's ESO/ESA procedures or other APDES settlement procedures.	Element 5
2	Track Facility Compliance	POG to document how to enter data in the state's database to track due dates associated with a schedule of noncompliance. The POG will ensure DEC's compliance tracking capabilities are in accordance with the EPA/DEC NPDES Memorandum of Agreement, Section 6.03.	Element 2, Finding 2-4

State Fiscal Year 2015 Program Improvement Calendar
July 1, 2014 through June 30, 2015

Improvement Area	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15
Fill Vacancies	Juneau EPS II/III 7/21 Fairbanks EPS II/III 7/1 Fairbanks EPS IV 7/16	Anchorage EPS III two positions - 8/1				Submit a plan and timetable by 12/31/14 for filling remaining vacancies.						
Training			DROPS Schedule of Compliance Training	Basic Inspector, Oct 22-24		Method and Scheme for tracking employee training		In-house BEN and ABEL training	One DEC staff attending Advanced Environmental Crimes Training	In-house Sampling Training Turbidity Training		Current staff will have SWPPP review and CESL training by 6/30/2015
Program Operating Guidelines						Submit Draft Priority 1 POGs to EPA by 12/31/14 for review and comment	Complete and Implement all Priority 1 POGs by 1/30/15				Submit Draft Priority 2 POGs to EPA by 5/29/15 for review and comment	Complete and Implement all Priority 2 POGs by 6/30/15
Violations Tracking						Set up functional Inspection Report sharing FTP site in time for Dec. 2014 EPA/DEC meeting.						
Industrial User (IU) Survey				Submit IU Survey Plan to EPA with template letter			Send plan Phase I letters to target POTWs			Send plan Phase II letters to identified IUS		Compile list of SIUs
Pretreatment Program Development			Pretreatment Program Development Kick-off Meeting	Send prioritized list of Pretreatment SOPs to EPA with dates				Submit Draft Priority 1 SOPs to EPA by 2/27/15 for review and comment	Complete and Implement all Priority 1 SOPs by 3/31/2015		Submit Draft Priority 2 SOPs to EPA by 5/29/15 for review and comment	Complete and Implement all Priority 2 SOPs by 6/30/15
Inspections and resource analysis					Submit CY 15 CMS Performance Benchmark: 100 inspections							
Enforcement Cases						Monthly Case Check-In with EPA. Performance Benchmark: Complete three cases by 12/31/2014	Monthly Case Check-In with EPA. Begin monthly case meetings with Department of Law	Monthly Case check-in with EPA.	Monthly Case Check-In with EPA. Performance Benchmark: Complete three additional cases by 3/31/2015. DEC/EPA Directors meeting to project new cases and target completion dates	Monthly Case Check-In with EPA.	Monthly Case Check-In with EPA.	Monthly Case Check-In with EPA.
Cross-training										Invite DNR, BLM, and ADF&G to turbidity and sampling trainings, when held.		

State Fiscal Year 2016 Program Improvement Calendar
July 1, 2015 through June 30, 2016

Improvement Area	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16
DROPS Database			Written Summary of DROPS capabilities with respect to Program Description Commitments and a Plan for any needed modifications.									
Pretreatment						Inspect one SIU by 12/31/2015						
Inspections and resource analysis		Initiate Resource analysis of inspection and case development staffing needs			Submit resource analysis to EPA with draft CMS for CY 16	Performance Benchmark: Complete 100 inspections for Calendar Year 2015						
Enforcement Cases	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA. DEC/EPA Directors discussion on DEC meeting new case projections	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA	Monthly Case Check-In with EPA. DEC/EPA Directors discussion on DEC meeting new case projections
Quarterly POG Review			Review existing POGs and update as needed quarterly			Review existing POGs and update as needed quarterly	APDES Compliance/Enforcement Program Evaluation Initiated		Review existing POGs and update as needed quarterly			Review existing POGs and update as needed quarterly
Training				Basic Inspector Training - TBD								Sampling QAPP and SOPs training

APPENDIX B

DEC Comments on the Air portion of the Draft SRF Report

THE STATE of ALASKA
GOVERNOR SEAN PARNELL

Department of Environmental Conservation

DIVISION OF AIR QUALITY
Director's Office

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Juneau, AK 99811-1800
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Toll free: 866-241-2805
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http://dec.alaska.gov/air/index.htm

CERTIFIED MAIL: 7013 2250 0002 0277 1340
Return Receipt Requested

March 6, 2014

Edward J. Kowalski, Director
Office of Compliance and Enforcement
U.S. EPA Region 10
1200 Sixth Avenue OCE-184
Seattle, WA 98101

Subject: February 3, 2014 Draft State Review Framework Report of ADEC Air Quality Enforcement Program

Dear Mr. Kowalski:

Thank you for the opportunity to review the draft State Review Framework (SRF) Report. Based on our review, we see no need for changes in the draft report you provided.

We appreciate the cooperative manner by which EPA conducted the review with us and EPA's efforts to minimize impacts on our staff and managers throughout this process. This review process continues to benefit our Air Permits Program and furthers our common goal for a well-run compliance program.

If you have any further questions or concerns, please John Kuterbach at (907) 465-5103 or Jim Baumgartner at (907) 465-5108.

Sincerely,

Alice Edwards
Director, Division of Air Quality

cc: John Kuterbach, ADEC/APP, Juneau
Jim Baumgartner, ADEC/APP, Juneau
Tom Turner, ADEC/APP, Anchorage

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APPENDIX C

DEC Comments on the Water portion of the Draft SRF Report

THE STATE of ALASKA
GOVERNOR SEAN PARNELL

Department of Environmental Conservation

DIVISION OF WATER
Director's Office

410 Willoughby Avenue
Juneau, Alaska 99801-1800
Main: 907.465.5180
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July 02, 2014

Edward J. Kowalski
Director, Office of Compliance and Enforcement
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 303
Seattle, WA 98101-3140
OCE-184

Ed

Dear ~~Mr. Kowalski~~:

This letter and its attachments provide the Alaska Department of Environmental Conservation, Division of Water's comments, corrections and recommendations on EPA's April 1, 2014 draft State Review Framework (SRF) report on the Alaska Pollutant Discharge Elimination System (APDES) Compliance and Enforcement program. We recognize that the Department's APDES compliance program is relatively young and has room to grow. The program is also recovering from several early setbacks and challenges – including high turn-over and a change in program management. The Division, as explained below, is already well-along in addressing these matters. Greater emphasis has also been put towards program development, including employment of "standard operating procedures" and other tools that will enhance performance. As the Division's APDES permitting staff and management have been able to whittle down the large backlog of expired and outdated permits it received from EPA on gaining primacy, the Division looks forward to putting even more attention to compliance assistance and enforcement. DEC is committed to having a fully-functional and well-performing APDES program.

EPA oversight, including through the SRF process, could be helpful to our shared goal of having an efficient, fair and effective Compliance and Enforcement program. However, this would require the SRF report to be accurate, objective and focused on tasks most relevant to success. Unfortunately, the draft SRF report contains errors, overstates problems, and makes inappropriate assumptions. The draft report also appears to go out of its way to be negative; for example, adopting metrics that don't appear to be part of the review program and setting deadlines for actions that could not possibly be met. The process EPA has proscribed for preparing the draft report, curtailing discussion with the Division and taking a very narrow view, is creating new challenges rather than dealing with the existing ones. We have had to put a significant amount of our resources into these comments on the draft report and hope that EPA management will carefully consider them, and the need for more discussion, before finalizing the draft report.

Although the draft report and this response contain a number of negative statements, this shouldn't be allowed to negatively impact our on-going cooperation in building the APDES program. Similar challenges were encountered in the early phases of primacy when the Division was struggling to get new APDES permits issued or administratively-extended EPA permits reissued over criticisms by EPA. With more dialog and attention to productive outcomes, this situation was turned around. In state fiscal year (SFY) 2014, that just closed on June 30, the Division doubled the number of new APDES permits issued over the number that were issued by EPA in the last year it had the full NPDES program. Over the last six years, no permit issued by DEC has been successfully challenged in court. Nor has EPA been compelled to veto a DEC-issued APDES permit. DEC is committed to continuous improvement in all aspects of the APDES program, and with constructive oversight and support, the improving trends in the Compliance and Enforcement Program will only be accelerated. Towards this end, we have tried to include in our comments on the draft report alternative language that would help improve the program.

Our comments are provided in two parts. First, this letter describes overarching themes with examples to illustrate our concerns and suggests improvements that can be made to the SRF process and report content. Second, the enclosure contains our detailed review of each section of the report, proposed edits to the report, and describes the basis for our proposed edits.

Level of Detail

The mission of the Division of Water is to improve and protect water quality in the State of Alaska. EPA in the draft SRF seems to have lost sight of how to accomplish this mission. We will reiterate the State of Washington Department of Ecology's letter of June 14, 2013 to EPA regarding their recent SRF, and note that the audit should focus on major threats to public health or the environment. Everything we do in our programs must be oriented towards improving and protecting water quality in the State of Alaska.

As written, however, the draft report strays far from the national program metrics; and EPA's search for any and all possible errors in Alaska's program, the level of detail, and the quantity of comments in the report are simply overwhelming and often specious or unnecessary. For example, far too much attention is paid to the details of the Program Description, written in 2006, years before Alaska had the APDES program. While we certainly agree that we need to strive to meet the major goals and commitments in the Program Description, EPA has borne down on areas – for example, our database – where change and adjustment is not only to be expected, but essential in our technological environment. The Program Description was written when ICIS-NPDES was only just being rolled out, and we did not know what it would do and did not know which tools would be the most important for the successful management of the compliance program. These voluminous comments on relatively insignificant issues have forced the State to unnecessarily spend time on issues that will not result in program improvements and that have no net environmental benefit.

Scope, Metrics, and Tone

EPA makes only passing reference to the fact that Alaska's program assumption from EPA was phased over four years and misses the opportunity to acknowledge the implementation challenges faced by a young program. The SRF audit year was only the fourth year that Alaska had been partially responsible (along with EPA) for the APDES program, and Alaska did not even have responsibility for the full program at the time of the audit. EPA retained a significant part of the

program during the audit year, yet EPA's implementation was not included in the audit and should be.

It is our understanding that the metrics to evaluate the program are primarily national metrics, consistently used across all the states, with some evaluation of implementation of other program commitments (such as the Performance Partnership Agreement or Program Description) yet it appears that the "other" metrics (such as the Department's 2006 Program Description) and Region 10 staff suggestions are given significantly more attention than the national metrics. For example, with no discernible basis, EPA calls for DEC to conduct 200 inspections in calendar year 2015 in the draft SRF, an effort normally negotiated through the PPA and the Compliance Monitoring Strategy. We understand that comparing the State-administered program with the previously EPA-administered program is also not an appropriate metric, but for reference we note that EPA has had the program since the inception of the Clean Water Act and EPA's own inspection record in Alaska between 2003 and 2008 (the first year of phase-in of the State program) shows an average of 50 inspections/year. DEC has been conducting approximately 150/year with 148 completed during the audit year. In the audit year, EPA itself conducted 39 inspections in Alaska, of which 13 were jointly conducted with the State.

We understand that the SRF review is a data-driven process, and we support the use of data – though the data in the draft SRF contains many errors, as we point out in Enclosure 1.

The draft SRF should provide contextual information reflecting DEC's plan to focus heavily on permitting in the early years of primacy to bring the many expired permits we inherited from EPA up to date, followed by a more aggressive buildup of the compliance and enforcement program. For context, in the years leading up to State primacy, EPA was issuing 7-9 NPDES permits per year. During the audit year, when DEC still did not have the full program, DEC issued 8 permits. The State issued 18 permits in the State fiscal year just concluded, and 703 general permit authorizations; and we expect to issue even more next year.

The first round of the SRF audit was conducted in 2003 on Region 10's program in Alaska, since EPA had full responsibility for the program at the time of that review. The first-round report is a revealing read, first in light of EPA's poor performance issues, but more importantly, in the tone of that report as it compares with the tone of EPA's draft report on Alaska's very young program. While significant problems existed with EPA's permit limit data entry (64% as compared to the national average of 95% and as compared with DEC's current 100% rate) and significant noncompliance reporting, for example, nowhere in the Round 1 report where EPA evaluated its own program do we find terms like "significant deficiencies," "performance issues," or "substantially below," phrases common in Alaska's Round 2 draft report. We request these be removed from the final report.

EPA repeatedly missed opportunities for praise. The data entry rate for discharge monitoring reports and permit limits for major facilities was 100%, for example. This offers EPA an opportunity to point to areas of real strength in DEC's program, yet EPA acknowledges it in the briefest of passages.

SRF Recommendations

Other details in the SRF report that we are concerned about include deliverable dates in EPA's recommendations that had already passed or were happening during our review of the draft report. Many of the deliverable dates in EPA's recommendations occur simultaneously, making them impossible to prioritize or achieve. Furthermore, EPA's attempt at collaboration was in the form of expecting DEC to commit to deliverable dates for corrective actions only two weeks after we received the draft report and before we could comment on whether we even agreed with EPA's recommendations. For any recommendations that remain in the final report, and that DEC concurs with, we request reasonable and staggered deliverable dates.

The final SRF should reflect that the Division of Water has added positions to the compliance program resulting in more positions in the program than are described in the Program Description (a total of 15 FTE as compared to the 9 FTE EPA had dedicated to the Alaska program).

We request that EPA delete the recommendation calling for the State to perform a resource analysis. A complete resource analysis was conducted (and approved by EPA) with our primacy application and the program has grown since then. EPA should also delete the suggestion that DEC seek additional resources from the legislature. The current challenge for the program is not a lack of positions, rather it is the current number of vacancies, the need to train new employees, and the need for additional guidance. The 2016 SRF review will be the perfect opportunity to assess the success of Alaska's program and the implementation of the Program Improvement Plan. Performing a resource analysis now would be a waste of time and would detract from the essential work of the program.

Response to SRF

Alaska's actions in response to some of the SRF recommendations have already begun as part of our ongoing program improvement. Our approach to the SRF response will be to develop a Two Year Program Improvement Plan. This plan will include EPA SRF recommendations that we find appropriate and productive, as well as other steps we find important to program success. The two-year plan will result in gradual strengthening of Alaska's program and will position Alaska ideally for the 2016 SRF review cycle.

Program Improvement actions Alaska has taken to date include:

1. Appointed acting Compliance Program Manager while recruitment is in process
2. Reorganized the program with a section manager in Juneau, Anchorage and Fairbanks in order to form a management team to ensure consistent implementation of standard operating procedures and guidance
3. Added 2.5 positions since program approval in 2008, including a second data position
4. Filled two of the eight vacancies in the program and expect to fill four more by July 31
5. Created work plans for new employees
6. Provided turbidity training to all compliance staff
7. Successfully addressed two of the 10 priority formal enforcement actions
8. Cross trained an employee with the Department of Natural Resources to inspect placer miners in Norton Sound for two seasons (2013 and 2014)
9. Developed templates for a compliance order by consent and an expedited settlement offer
10. Created a memo template and procedure for Department of Law referrals
11. Programmed a Schedule of Compliance module in DROPS to track compliance dates and deliverables (test mode / production expected end of July)

12. Developed procedures for sending annual report reminders to permittees
13. In response to mailing 676 annual report reminder letters to seafood processors and placer miners, issued 230 compliance letters and 118 notices of violations for failure to submit annual reports.

Process

We must state our grave disappointment in the SRF process to date. Throughout this SRF process, we have trusted that "EPA Region 10 reviewed the DEC APDES compliance and enforcement program to help improve DEC's ongoing operations, and to provide feedback and insights that may prove helpful … in DEC's ramp up to a fully implemented, vigorous APDES compliance and enforcement program" (SRF Introduction, 4th paragraph). Leading up to the release of the draft report, we trusted that "EPA builds consultation into the SRF to ensure that EPA and the state understand the causes of issues and agree, to the degree possible, on corrective actions needed to address them," and that **"the SRF reports capture the agreements developed during the review process** [emphasis added] in order to facilitate program improvements" (SRF Report, page 1, final paragraph). Yet we have been told by Region 10 that we have one opportunity (this letter and its enclosure) to respond and address the numerous inaccuracies and overstatements, that EPA will talk to us about the issues, and that EPA will decide the content of the final SRF report and talk to us about it (as EPA time allows), but will not share the changes with Alaska before it is made final. To date, this cannot be construed as a collaborative process. Our expectation is that Region 10 will devote the necessary time and resources to complete the SRF in the collaborative manner it was intended to be.

Alaska is absolutely committed to the success of its APDES program. As we transparently stated in our early years of the program, our initial emphasis was on building a strong permitting program, since current and defensible permits are the cornerstone of a strong compliance program. Our attention and commitment to the compliance and enforcement program is equally strong. Our demonstration of success in the permitting program should be an indication that the compliance program will become more robust and effective. We will continue to work with EPA in the hopes of a final, more accurate SRF that aids us in our program improvements.

Sincerely,

Michelle Hale

Michelle Hale
Director

Enclosures: Enclosure 1
Attachment A to Enclosure 1

CC: Lauris Davies, EPS, w/enclosure
Jeff Kennight, EPS, w/enclosure
Sharon Morgan, DEC, w/enclosure

Enclosure 1

DEC response to draft State Review Framework Report

Bolded and / or ~~strike-out~~ words indicate where changes are proposed.

Executive Summary				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
	Introduction First page Paragraph 2 Sentence 2	EPA Region 10 transferred the NPDES program to DEC's **APDES** program in four phases over **five** years (2008-2012).	EPA Region 10 transferred the NPDES program to DEC's **Division of Water** in four phases over **four** years (2008-2012).	
	Introduction First page Paragraph 3	This SRF oversight review is the first SRF review of the DEC APDES compliance and enforcement program. Accordingly, the oversight review…	This SRF oversight review is the first SRF review of the DEC APDES compliance and enforcement program. **At the time of the review, DEC had been implementing the program for three years, and the fourth and final phase had not yet transferred to DEC.** Accordingly, the oversight review…	
	Priority Issues to Address First Page Paragraph 1	The SRF review revealed a number of **significant** deficiencies in the APDES compliance and enforcement program.	The SRF review revealed a number of deficiencies in the APDES compliance and enforcement program.	The word 'significant' is based on opinion and not fact.
	Actions to Address Priority Issues Second Page Bulleted list	Delete bulleted list and replace with DEC proposed language.	To address these priority issues, DEC and EPA Region 10 have agreed that DEC will: □ Develop and implement a **Two-Year Program Improvement Plan** that will include:	□ Second Page, 'Actions to Address Priority Issues': The lead in sentence referring to DEC 'must' take certain actions has no legal basis and should be replaced with DEC proposed language.

			i. A prioritized list of standard operating procedures, checklists, and guidance documents to be developed ii. Staff development that will include staff work plans, training, and performance measures iii. A plan and timeline to conduct a Statewide Pretreatment Survey	Per the SRF Report, page 1, last paragraph, EPA was to build in consultation in the SRF process. EPA's proposed language is a unilateral decision as to what DEC needs to do to improve the compliance program without any prior discussions with DEC. Remove all references to conducting 200 inspections in 2015.
II. SRF Review Process				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
	Page 2 Paragraph 1	**Review process:** The SRF review process typically focuses on facility file evaluations, completion of commitments and reviews of data metrics from national data systems. This SRF review was the first SRF review of the DEC APDES compliance and enforcement program and DEC did not have full administrative and implementation authority over all APDES sectors in federal fiscal year 2012, the primary year reviewed in this report.	Add sentence to the end of the paragraph: The SRF review process typically focuses on facility file evaluations, completion of commitments and reviews of data metrics from national data systems. This SRF review was the first SRF review of the DEC APDES compliance and enforcement program and DEC did not have full administrative and implementation authority over all APDES sectors in federal	

			fiscal year 2012, the primary year reviewed in this report. The review period occurred during DEC's fourth year of managing the APDES Program in Alaska.	
	Page 2 Paragraph 2	EPA Region 10 approved DEC's APDES program in October, 2008. EPA Region 10 transferred the NPDES program to the APDES program in four phases over **five** years (2008-2012). Phase I (e.g., domestic discharges, timber harvesting and seafood processing sectors)…	EPA Region 10 approved DEC's APDES program in October, 2008. EPA Region 10 transferred the NPDES program to the APDES program in four phases over **four** years (2008-2012). **Phasing program authority to a state is unique to Alaska.** Phase I (e.g., domestic discharges, timber harvesting and seafood processing sectors)…	
	Page 2 Paragraph 3	~~In light of this relatively new APDES program and its phased program implementation~~, this SRF review includes evaluations of various DEC APDES program commitments that are integral and foundational bases of a comprehensive DEC APDES program framework and that affect EPA's ability to conduct effective oversight.	Revise language to read: **DEC's phased authority of the APDES Program began only three years before the beginning of the SRF review period and full authority only transferred at the end of the SRF review period. Hence,** this SRF review includes evaluations of various DEC APDES commitments that are integral and foundational bases of a comprehensive DEC APDES program framework and that affect EPA's ability to conduct effective oversight.	The lead in sentence does not make sense with the rest of the sentence.

	Page 2/3	The most significant APDES program issues identified in this SRF review process were discussed with DEC prior to the SRF FY 2012 review period. For example, in February 2010, EPA met with DEC to raise concerns about DEC's Phase I inspection coverage rates and DEC's procedures for initiating formal enforcement actions. This joint meeting was held to discuss the timing of the Phase III and IV transfers. EPA also discussed the SRF process during this meeting. These issues and related matters were discussed between EPA and DEC in subsequent routine conference calls and periodic face-to-face meetings.	~~The most significant APDES program issues identified in this SRF review process were discussed with DEC prior to the SRF FY 2012 review period. For example, in February 2010, EPA met with DEC to raise concerns about DEC's Phase I inspection coverage rates and DEC's procedures for initiating formal enforcement actions. This joint meeting was held to discuss the timing of the Phase III and IV transfers. EPA also discussed the SRF process during this meeting. These issues and related matters were discussed between EPA and DEC in subsequent routine conference calls and periodic face-to-face meetings.~~	Delete paragraph. It serves no purpose in the context of the Report.
	Page 3 Paragraph 1 (complete paragraph)	As context for implementation of SRF recommendations and corrective actions developed through this SRF review process, EPA's Clean Water Act (CWA) Action Plan includes efforts to build robust and credible regional and state compliance and enforcement programs, and to ensure consistent enforcement actions across states to maintain a fair and level playing field for the regulated community and the public.	Delete entire paragraph or add clarifying language that the Action Plan was not revisited or discussed with DEC after it was finalized.	After DEC developed the CWA Action Plan, there was no further discussion with EPA. The Action Plan was basically the PPG work plan repackaged. There is no added benefit for referencing this initiative, nor is the SRF recommendations or corrective actions tied to the CWA Action Plan.

	Page 3 Paragraph 2 (complete paragraph)	DEC's increased efforts to implement SRF recommendations and corrective actions as a means to build a rigorous and credible APDES compliance and enforcement programs in Alaska is particularly critical at this time. The EPA Office of Inspector General's (OIG) report, *EPA Must Improve Oversight of State Enforcement*, (Report No. 12-P-0113, December 9, 2011), found the CWA enforcement programs in Alaska were underperforming. The OIG report found that EPA actions to date had not brought about improved performance in the DEC compliance and enforcement program. In response to **the CWA Action Plan,** the OIG report and this SRF review process, EPA and DEC will prioritize SRF recommendation efforts and use all available mechanisms to improve the performance of their compliance and enforcement program.	DEC's increased efforts to implement SRF recommendations and corrective actions as a means to build a rigorous and credible APDES compliance and enforcement programs in Alaska is particularly critical at this time. The EPA Office of Inspector General's (OIG) report, *EPA Must Improve Oversight of State Enforcement*, (Report No. 12-P0113, December 9, 2011), found the CWA enforcement programs in Alaska were underperforming. The OIG report found that EPA actions to date had not brought about improved performance in the DEC **or EPA** compliance and enforcement **programs**. In response to the OIG report and this SRF review process, EPA and DEC will prioritize SRF recommendation efforts and use all available mechanisms to improve the performance of their compliance and enforcement **programs**.	The December 2011 OIG Report covered the federal fiscal years 2003 – 2009 when EPA was responsible for most of the program during the review period. It is disingenuous of EPA to leave the impression that the state's program needed improvement.

	Page 3 Paragraph 3 (Complete paragraph)	**Frozen OTIS data and State verification process:** The SRF review was complicated by a frozen OTIS data set and metrics analysis that contained Phase IV oil and gas facilities that were not under DEC authority or administration in FY 2012 as well as other non-applicable data, and did not include other mandatory data. The State's evaluation and verification process of the pre-frozen OTIS data set did not identify and correct significant data anomalies (e.g., inclusion of inapplicable permits within prefrozen OTIS universes and counts, missing completed inspection data) that affected the subsequent frozen OTIS data metrics analyses. In an effort to promote accurate findings, EPA re-calculated applicable metrics using corrected universe and count data (e.g. eliminating Phase IV facilities). This report includes original and re-calculated data set information.	Refer to 'corrected' data in this paragraph only. Reference to 'corrected' data should be removed from the rest of the Report. **Frozen OTIS data and State verification process:** The SRF review was complicated by a frozen OTIS data set and metrics analysis that contained Phase IV oil and gas facilities that were not under DEC authority or administration in FY 2012, as well as other non-applicable data, and did not include other mandatory data. **The State's evaluation and verification process of the pre-frozen OTIS data set did identify, and DEC attempted to correct Phase IV facilities that were not under State's authority in 2012. The State notified EPA several times about the inclusion of inapplicable permits; however, EPA failed to remove those permits from the OTIS universe. To perform the SRF audit,** EPA **removed the Phase IV facilities that were under their authority and** re-calculated applicable metrics using corrected universe and count data (e.g.	Not factual. Implies DEC did not accurately review the frozen data. EPA Headquarters had changed the 'Issuing Agency' from EPA to DEC in OTIS resulting in a data pull that included Phase IV facilities under the authority of EPA for the time period of the audit. DEC has no authority to direct EPA Headquarters to change data in OTIS. The Report must describe this situation once. All additional references to the 'uncorrected' data must be deleted or clarifying language making it clear that the need to correct the data was not DEC's fault. All data summaries should be calculated based on the 'corrected' or re-calculated data after EPA removed the Phase IV facilities that were under their authority. This is another example of the unique challenges conducting an audit of a program where NPDES program authority was phased.

			eliminating Phase IV facilities). This report includes **only recalculated** data set information.	

III. SRF Findings

Element 1- Data Files and Data Bases Where Data Are Accurately Reflected in National Data System

Finding	Report Section	Existing EPA Language	Proposed State Language	Comment
Finding 1-1	Page 5	Area of State **Improvement**	Area of State **Attention** See Attachment 1 of Enclosure A	Inaccuracies exist with EPA's review of the data. Correcting the inaccuracies warrants changing the Finding to 'Area of State Attention', because the state percentage changes from 75% to 92.9%. Historically, the percentage that triggers an 'Area of Attention' 85% and above. DEC and EPA data stewards need to review the frozen data together to ensure correct interpretation of findings.
Finding 1-1	**Explanation** Page 5	In regard to Metric 2b and for **seven** of the 28 files reviewed, the	In regard to Metric 2b and for **two** of the 28 files reviewed, the	DEC and EPA data stewards need to review the frozen data

	Paragraph 2	mandatory data were not accurately reflected in OTIS, the national data system. For example, data inaccuracies included entries not reflecting receipt of discharge monitoring reports (DMRs), incorrect facility address and an incorrect data of an informal enforcement action.	mandatory data were not accurately reflected in OTIS, the national data system. For example, **required permit deliverables were not entered in OTIS.** See Attachment 1 of Enclosure A	together to ensure correct interpretation of findings.
Finding 1-1	**Explanation** Page 5 Paragraph 3	Metrics 5a1, 5b1, 5b2, 7d1, 7f1, **7h1**, and 8a2 address data related to inspections and violations. The frozen OTIS universes **and counts contained inapplicable facilities** and omitted inspection data.	**Revise language** to: Metrics 5a1, 5b1, 5b2, 7d1, 7f1, **7h1**, and 8a2 address data related to inspections and violations. The frozen OTIS universes omitted inspection data.	Metric 7h1 is not included in the Metric handout provided. Delete reference to the Phase IV facilities. This situation should be explained once early in the Report and then not repeated. No additional information is provided with repetition.
Finding 1-1	**Relevant metrics** Page 5	**State State State** N D % or # 21 28 75%	**State State State** N D % or # 26 28 92.9% See Attachment A of Enclosure 1	
Finding 1-1	**Recommendation** Page 5 Last sentence	Program Improvement Plan …- DEC shall submit the completed PIP to EPA for review and comment within **60** days of the finalization date of this SRF report.	DEC will develop and implement a Two-Year Program Improvement Plan.	This should be an area of state attention and therefore should not include a recommendation. If it remains an area of improvement, it should be limited to development of the PIP.

Element 1 – Data: Completeness of Data Entry on Major Permit Limits and Discharge Monitoring Reports (DMRs)				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 1-2	**Summary** Page 6		By its fourth year of managing the program, DEC had achieved a perfect 100% rate of permit limits and DMR data entry for major facilities.	Add proposed language to end of paragraph. This area provides an opportunity for praise, as well as an opportunity to compare with EPA's metric for DMR data entry in the 2005 SRF
Finding 1-2	**Explanation** Page 6 Paragraphs 2 and 3	The frozen OTIS universe derived from ICIS-NPDES contained seven Phase IV facilities that were not administered by the State in FY 2012. Excluding these seven Phase IV, the corrected Metric 1b1 is 89.7%. The 89.7% rate is approximately 94.4% of the minimum national goal of 95%. A similar correction to Metric 1b2 was made (i.e. removal of the Phase IV facilities) but because the State entered all received DMRs, the State still had a 100% rate for DMR entry for major facilities.	The State had a 100% rate for permit limit data entry for major facilities. The State had a 100% rate for DMR entry for major facilities. See Attachment A of Enclosure1	Delete reference to the Phase IV facilities should be deleted and 'corrected' dated. EPA's review of the data resulted in inaccuracies. Two seafood processing facilities that EPA reviewed do not have permit limits and a third facility (MS4) does not have permit limits and is not required to submit DMRs.
Finding 1-2	**Relevant metrics**	**State N** **State D** **State % or #** 26 29 89.7% 723 723 100%	**State N** **State D** **State % or #** 29 29 100% 723 723 100%	

Element 2 – Inspection Commitments: Inspection Coverage of NPDES Major Facilities				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 2-1	**Explanation** Page 7 Paragraph 4	~~Row A below reflects the State's measure based on the uncorrected frozen OTIS data. Row B reflects the correction to eliminate 10 Phase IV facilities from the universe~~	Delete language. Revise paragraph to read: **Row A reflects facilities under DEC authority.** If language is not deleted and revised as proposed, then revise language to read: Row A reflects the State's measure based on the frozen OTIS data, which contained Phase IV facilities. Row A is not the correct metric by which to measure the State's performance.	EPA was responsible to remove the Phase IV facilities under their control from the prefrozen data. EPA's language implies DEC was responsible.
Finding 2-1	**Explanation** Page 7 Paragraph 6			Paragraph 6 requires more explanation. Why is EPA changing the years for which data is pulled and reviewed?
Finding 2-1	**Explanation** Page 7 Paragraph 7	Based on information from DEC, the causes of inspection coverage deficiencies in Findings 2-1, 2-2 and 2-3 include, in part, the **lack of an adequate number of trained inspectors** to reliably meet DEC's Program Description inspection frequency commitments and the EPA/DEC CMS goals. **DEC has also asserted, in CMS submissions, that inspection travel budgets negatively affect its ability to**	Based on information from DEC, the causes of inspection coverage deficiencies in Findings 2-1, 2-2 and 2-3 include, in part, the lack of **SOPs and guidance** to reliably meet DEC's Program Description inspection frequency commitments and the EPA/DEC CMS goals. **Previous CMS language points out the unique travel challenges in Alaska where most facilities**	The SRF Report is to be based on facts; not assertions. The EPA draft language in bold is not factual and should be deleted. DEC program manager has repeatedly told EPA that the travel budget is sufficient and has not negatively impacted DEC's ability to carry out the

		complete inspection coverage meeting CMS goals.	**are only accessible via boat or plane. To address these challenges, DEC and EPA will continue to discuss and develop sector strategy approaches that will result in an understanding of the compliance level in a sector with the understanding that the national CMS goals may not be met. EPA will continue to support the State's effort by communicating the acceptable approach to EPA Headquarters.**	responsibilities of the Compliance Program. EPA misconstrued the intent of the language in the CMS. The intent of the language in the CMS was to point out unique challenges in Alaska that could make meeting the CMS goals difficult or that the CMS goals may be unattainable for Alaska given these unique challenges other states do not face. For example, most of Alaska is not on the road system and accessible only by plane or boat. This challenge adds to the travel time to conduct inspections, which means fewer inspections may be completed during the work week given the travel time. Also, the national CMS goals for inspecting facilities covered under a general permit like the Small Placer Mining General Permit is an example of a unique challenge in Alaska; one that was recognized by EPA HQ in the 2005 SRF audit. To address this, DEC and EPA initiated discussions about sector strategy approaches, which DEC has started to implement.

	Recommendation Page 8	Metric ID Number and Description Table	Correct Row Letters after deleting Row A.	
	Recommendation Page 8 Paragraph 2	DEC must obtain and mobilize additional APDES compliance and enforcement program inspection resources to meet DEC and EPA NPDES CMS goals and DEC Program Description commitments.	Delete.	DEC will not obtain and mobilize additional resources. Recommendation is premature and not based on facts.
Element 2 Finding 2-1	**Recommendation** Page 8 Paragraph 3	Inspection Resources Analysis & Plan. The State will conduct an APDES inspection resources analysis and prepare and implement a plan to identify and obtain the APDES compliance and enforcement program staff resources (i.e., additional full time employee equivalents (FTEs)) and supporting resources (e.g., inspection travel budgets) that are needed to meet EPA NPDES CMS inspection goals for all APDES facility sectors. The plan should aim to have these resources mobilized to implement post- CY 2014 APDES inspection plans and to meet DEC Program Description commitments. Appendix B contains the inspection resources analysis and plan elements and details. DEC will submit a final analysis report/plan to EPA by August 1, 2014.	Delete	Recommendation is premature. If DEC were to conduct such an analysis, the analysis would not be conducted until all vacancies are filled and SOPSs and guidances developed and implemented. Because the program is still new, the 2016 SRF audit will be a more appropriate avenue for discussing such a plan if problems with staffing levels are revealed by the 2016 SRF audit.

Finding 2-1	**Recommendation** Page 8 Paragraph 4	Post CY 2014 Inspection Plans. Except as noted herein for the CY 2015 CMS inspection plan, the State will submit annual inspection plans after CY 2014 that meet all EPA NPDES CMS goals and DEC Program Description commitments for all APDES facility sectors. DEC must begin ramping up and mobilizing additional inspection resources as it completes and implements the Inspection Resource Analysis and Plan. As an interim step, DEC must complete at least 200 inspections in CY 2015, and include the goal of 200 inspections in its CY 2015 CMS inspection plan.	Post CY 2014 Inspection Plans. The State will submit annual inspection plans after CY 2014 that will include sector strategy approaches with the intent to meet EPA NPDES CMS goals and DEC Program Description commitments for all APDES facility sectors.	It is premature to speculate the outcome of the Resource Analysis. DEC needs to focus on maximizing the use of its existing resources including filling vacant positions, developing and implementing SOPs, and training and certifying staff, before attempting to go to the Alaska Legislature for additional positions and funding, particularly as the state is seeing a decline in revenues. The CY 2015 CMS will identify the number of inspections planned to be conducted. A goal of 200 inspections in 2015 is entirely unreasonable. As a comparison, between 2003 and 2008 when EPA had authority of the program, EPA conducted a total of 303 inspections (which calculates to a median of 46 and an average of 51 inspections per year).
Finding 2-1	Recommendation Page 8/9 Paragraph 5	For Findings 2-1, 2-2 and 2-3, EPA will monitor implementation of the DEC's annual CMS and inspection plans and the inspection resources analysis final report and plan's implementation. EPA will also monitor DEC's inspection coverage	For Findings 2-1, 2-2 and 2-3, EPA will monitor implementation of the DEC's annual CMS and inspection plans. ~~and the inspection resources analysis final report and plan's implementation~~. **EPA will continue to work with**	

		results against EPA CMS goals and annual CMS inspection plans, and DEC's annual data metrics analyses. EPA will continue to conduct lead inspections in the State.	**DEC to identify and implement sector strategy approaches to ensure overall facility compliance within those sectors.** EPA will also monitor DEC's inspection coverage results against EPA CMS goals, annual CMS inspection plans, and DEC's annual data metrics analyses. EPA will continue to conduct lead inspections in the State.	
Element 2 – Inspection Commitments: Inspection Coverage of NPDES Non-Major Facilities Excluding Facilities Covered Under Metrics 4a1-4a11				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 2-2	**Explanation** Page 10 Paragraph 3	Rows A and C below reflect Metrics 5b1 and 5b2 measures respectively based on the uncorrected frozen OTIS data. Rows B and D reflect similar data corrected to eliminate the inapplicable facilities	Rows A and B reflect Metrics 5b1 and 5b2 measures, respectively based on the frozen OTIS data – FY2012 only.	EPA should not reflect results based on data that included Phase IV facilities. Reference to 'corrected' or 'uncorrected' date should be removed.
Finding 2-2	**Explanation** Page 10 Paragraph new #6		Between paragraphs 5 and 6 add a new paragraph that explains that Rows E-H on page 11 are not based on SRF data and are provided for context only.	The in-depth analysis of inspections after the review period is not helpful.
Element 2 – Inspection Commitments: Inspection Coverage of NPDES Non-Major Facilities Under Metrics 4a1-4a11				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 2-3	Overall section 2-3 and Appendix C.			EPA and the State need to walk through this section in detail. What is the overall metric that drives EPA to Improvement vs. Attention? Why does the

				Exceeds Expectation metric for 4a8 not carry more weight in the entire score? For most of the metric numbers (4a1 – 4a7), both the numerators and the denominators are tiny, making the resultant metrics virtually meaningless. The North Pole pretreatment program was only approved in 2012. It should not be counted in 2012 as the program could not have planned for the inspection without knowing when it would be approved.
Element 2 – Adherence to and Completion of Program Commitments				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 2-4	Page 15	Area of State **Improvement**	Area of State **Attention**	Finding 2-4 has no metrics for determining 'Area of State Improvement' vs. 'Area of State Attention'. Lacking defined metrics or criteria, EPA's conclusion is subjective. Implementation of the TwoYear Program Improvement Plan will address these deficiencies.
Finding 2-4	**Summary** Page 15	The State has **serious** performance issues under Metric 4b (non-CMS commitments)…	The State has ~~serious~~ performance issues under Metric 4b (non-CMS commitments)…	Overall comment: This is supposed to be a discussion of Alaska's adherence to and completion of program commitments. There is no mention of commitments

				adhered to. For example, Alaska has more positions devoted to compliance than are described in the Program Description.
Finding 2-4	**Explanation** Page 15 Paragraph 2	In regard to pretreatment, DEC has not completed the state-wide survey of industrial users for purposes of determining significant industrial users (SIUs) that it committed to completing before October 31, 2009. DEC has not developed POTW pretreatment program oversight procedures and DEC inspection and sampling plans. *See* App. D, Parts A-D. DEC's **failure** to complete these tasks negatively affects DEC's ability to fully and successfully implement other pretreatment related elements like SIU inspection goals. *See* Finding 2-3 (Metrics 4a1-4a3).	In regard to pretreatment, DEC has not completed the state-wide survey of industrial users for purposes of determining significant industrial users (SIUs) that it committed to completing before October 31, 2009. DEC has not developed POTW pretreatment program oversight procedures and DEC inspection and sampling plans. *See* App. D, Parts A-D. **DEC's completing these tasks will be beneficial to DEC's ability to fully and successfully implement other pretreatment related elements like SIU inspection goals.** *See* Finding 2-3 (Metrics 4a1-4a3).	'Failure' is a strong word in this case. DEC assigned a lower priority to this task, because 1) Alaska's industrial facilities tend to be located in select, larger communities; 2) a statewide survey is not appropriate, because DEC knows that the vast majority of communities in AK are small, native, and / or rural and have no industrial contributors to the collection system; and 3) EPA placed a lower priority on this task as demonstrated by **never** completing a state-wide survey when EPA was the NPDES program authority.
Finding 2-4	**Explanation** Page 15 Paragraph 3	DEC does not conduct annual compliance evaluations of major facilities and does not maintain DROPS as a means to track facility compliance, including required facility submittals or corrective actions that result from inspections or enforcement actions. *See* App. D, Parts E-F.		Developing the compliance module in DROPS, including the ability to track required facility submittals has been under development and expected to be in production by July 31, 2014.
Finding 2-4	**Explanation** Page 15 Paragraph 4	DEC does not use DEC's risk-based inspection ranking model to develop annual inspection plans, in part,	Although DEC does not use an electronic risk-based inspection ranking to create the inspection	EPA's repeated reference to the risk-based inspection schedule is not beneficial nor provides

		because relevant data is not entered into DROPS. DROPS has not been set up yet to accept the data that is needed to generate the facilityranked, risk-based reports. *See* App. D, Part G.	schedule, DEC's inspection schedule is risk-based. The riskbased inspection schedule is based on the goals of the CMS, which are inherently risk-based (majors inspected annually, e.g.); repeat violators; and follow inspections to determine compliance.	any new information. The Program Description was written in 2006. Not having a computer model produce an inspection schedule does not preclude humans from developing a risk-based schedule.
Finding 2-4	**Explanation** Page 15 Paragraph 5	DEC **deviated** from Program Description commitments regarding APDES inspection reports. During an EPA oversight inspection, EPA discovered that DEC had implemented a practice of preparing **only** a post inspection letter instead of formal inspection reports as required by EPA NPDES guidance and as committed to by DEC. DEC acknowledged this practice was not in accord with its Program Description. *See* App. D, Part H.	DEC attempted to streamline a process from the Program Description commitments regarding APDES inspection reports. During an EPA oversight inspection, EPA discovered that DEC had implemented a practice of preparing a post inspection letter instead of formal inspection reports as required by EPA NPDES guidance and as committed to by DEC. **Although there were very few instances where a post inspection letter was sent,** DEC acknowledged this practice was not in accord with its Program Description **and immediately stopped the practice when brought to DEC's attention. This practice no longer occurs.** *See* App. D, Part H.	DEC also submitted Form 3560 to EPA. EPA is blowing out of proportion this seldom used practice. DEC can recall two times when definitely this practice occurred and perhaps a small handful of times in total. This is very minor and needs to be either toned down and language included that the issue has been addressed and rectified or the language completely deleted. This seldom used practice that was corrected prior to EPA's SRF review should not warrant an 'area of state improvement'.
Finding 2-4	**Explanation** Pages 15/16 Paragraph 6	DEC deviated from its Program Description and internal policies by using DEC staff, without inspection	Delete paragraph in its entirety.	No factual.

		credentials, to conduct APDES inspections of a major facility. *See* App. D., Part I.		DEC does not allow uncredentialed staff to conduct inspections. This statement is not based on facts. It appears EPA based this accusation on the results of a PPG work plan summary report; not an ICIS-NPDES report. EPA did not confirm that this same information was logged in ICIS-NPDES. The PPG work plan summary report pulls data from DROPS, the DEC database. A DEC staff person conducted 'site visits' at two mines and incorrectly logged the information into DROPS as inspections. Inspection reports were not completed, Forms 3560 were not submitted to EPA, nor where inspections logged in ICIS-NPDES, the national tracking database. Incorrectly entering data in the state's DROPS systems warrants a rating of 'area for state attention' rather than 'area for state improvement' and can be addressed via SOP development and staff training.
Finding 2-4	**Explanation** Page 16	Other commitment deficiencies include: (1) lack of cross-training as	Rewrite as follows:	The Report should include language to provide current

	Paragraph 2	a means to increase the APDES program's effectiveness in the field; not routinely making the requisite submittals to EPA regarding completed enforcement actions and facility violations; and not conducting timely enforcement regarding annual report submission violations under placer mine general permits.	Other commitment deficiencies include: Lack of cross-training as a means to increase the APDES program's field presence. However, in the summers of 2013 and 2014, DEC cross-trained a DNR staff to monitor the placer mining activities in Nome. DEC had not been routinely submitting to EPA completed enforcement actions. Once this deficiency was brought to the manager's attention, DEC has been routinely submitting required information. DEC has not submitted to EPA facility violations, which is not required of other Region 10 states nor has EPA provided guidance or direction on how to provide that information despite the program manager's repeated requests for guidance. In January 2013, DEC mailed reminder letters to placer miners regarding submittal of the 2012 Annual Report. DEC did not conduct timely enforcement regarding annual report submission violations under the placer mine general permits after	status of the program to demonstrate that some deficiencies have been addressed. Item #3: This was a commitment in the CWA Action Plan that neither agency followed up on after it was written. It appears now that EPA HQ is moving away from the Integrated Work Plan concept. EPA is really digging to find something negative with the program. EPA's language is disingenuous and fails to acknowledge that EPA at one time mailed reminder letters to seafood processors and failed to provide any follow up actions.

			mailing reminder letters to permittees. However, in January 2014, DEC mailed Annual Report reminder letters to placer miners and seafood processors. Permittees continue to respond to the compliance letters and notices of violation. DEC expects to receive additional annual reports, as well as notices of termination from permittees no longer seeking coverage under a permit. As of May 29, 2014, the mining and seafood sectors have an 89.9% and 91% compliance rate, respectively. A full summary of this outreach and the corresponding enforcement actions will be included in the 2015 CMS.	
Finding 2-4	**Recommendation Division of Water Letter**	Director write a letter to address • APDES Inspector Training / Credentials and Inspection Reporting • Inspection Report Practices / post inspection letter	Delete completely.	DEC strongly disagrees and will not implement the recommendations. SRF language is incorrect and exaggerates and overstates the situation. The language should be revised to correct inaccurate language and note that issues have been resolved. EPA is incorrect regarding DEC's sending un-credentialed

				staff to conduct inspections, as explained above. Very few post inspection letters were sent, the practice was stopped immediately after EPA informed the program manager, and there is very little basis for concern.
Finding 2-4	**Recommendation** Pages 16 / 17	State-wide Pretreatment Survey and Program SOPs • May 15, 2014 submit survey plan… • December 1, 2014 complete development and implementation of SOPs • December 1, 2014 submit SUI determinations	Revise to read: Within 90 days of finalizing the SRF Report, DEC will develop and submit to EPA for review a Two-Year Program Improvement Plan that will include, among other items, timeframes for SIU survey activities: • Survey Plan • Identification and development of SOPs • Development of a list of SIU determinations	Pretreatment Survey and SOPs development will be part of the Two-Year Program Improvement Plan. Timeframes will be established in the Plan.
Finding 2-4	**Recommendation** Page 17	**Transmit Copies of Enforcement Actions** (App. D, Part L) Starting immediately, transmit to EPA copies of all enforcement actions ranging from compliance letters to administrative and judicial actions.	Delete entirely.	This situation has been resolved and the recommendation is not necessary. Upon being reminded of this program commitment, DEC staff have routinely sent all required documents. The SRF Report should acknowledge that DEC has addressed this deficiency.

Finding 2-4	**Recommendation** Page 17	**Provide quarterly written summaries to EPA of facility specific violations and enforcement responses.**	~~**Provide quarterly written summaries to EPA of facility specific violations and enforcement responses.**~~	Delete this requirement. Submitting this information to EPA is not required of any other Region 10 state. Despite several attempts by the DEC program manager for guidance, EPA has not provided guidance to on how to provide this information. DEC agreed under duress to keep this language in the FY15 PPG work plan provided EPA continues to discuss the issue. The language implies that DEC is not trying to comply. In addition, this added, repetitive level of reporting information that is available in EPA's own ICIS data base detracts from DEC's ability to build and run its compliance and enforcement program.
Element 2 – Inspections: Timeliness and Sufficiency of Inspection Reports				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 2-5	**Explanation** Page 19 Paragraph 3	In regard to timeliness, the State's **policy** is to complete and transmit a final inspection report to the inspected facility's responsible party within 30 days of completion of a comprehensive evaluation inspection	In regard to timeliness, the State's **goal in the Program Description**…	This is not a policy in the Program Description. EPA must review DEC's program against national goals for reporting standards rather than state targets or goals in the program

		and within 45 days of a compliance sampling inspection. The average time for completion was 86 days.		description that might be more stringent.
Finding 2-5	**Relevant metrics** Page 19			What is EPA's metric for 'Attention' vs. 'Improvement'?
Element 3 - Violations				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 3-1	Page 20	Area of State **Improvement**	Area of State **Attention** See Attachment 1 for a detailed response	Inaccuracies exist with EPA's review of data of the frozen data. Correcting the inaccuracies results in only two files missing mandatory data in OTIS. EPA is combining metrics in this finding. The two inspection reports referred to in the draft Report resulted in an accurate enforcement determination. Not carrying the SEVs over into the NOVs is an issue under Element 2 and should be addressed through SOP development and staff training. The corrections result changing the state's percentage from 76.5% to 88.2%, thus meeting the national goal of 85% for requiring an 'Area of state attention'.
Finding 3-1	**Explanation** Page 20 Paragraph 2			Paragraph needs to re-written to reflect that the two inspection reports did result in the correct

				enforcement action – an NOV, and that in one case the inspection report had not been completed.
Finding 3-1	**Relevant metrics** Page 21	Row D State N: 13 State D: 17 State % or #: 76.5%	Row D State N: 15 State D: 17 State % or #: 88.2%	
Element 4 - Enforcement				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
Finding 4-1	**Explanation** Page 23-24	Examples of enforcement cases provided as background	Delete bulleted list of enforcement case examples	As stated in the SRF Report, these are examples provided as background, rather than as a result of the SRF file review. Nothing should be included in the SRF Report that is not part of the Report. In addition, the time period is not the SRF review period.
	Explanation Page 25 1st bullet	□ During 2008-2011, the Division of Water did not acknowledge that formal enforcement was an integral component of a comprehensive, effective NPDES permit program and this position was not conducive to the development and implementation of a vigorous enforcement program using formal enforcement actions.	Delete entire bullet or revise to read: At program approval, DEC inherited a backlog of EPA-issued NPDES permits that were expired and out of date. During 20082011, the Division of Water acknowledged that issuing current, legally defensible permits was the priority, because having current, legally defensible permits is paramount to the development	This is not a factual statement, is taken out of context, and should be deleted or revised as proposed.

			and implementation of a vigorous enforcement program.	
Finding 4-1	**Explanation** Page 25 2nd bullet	□ DEC lacks an adequate complement of trained inspectors and other resources (e.g. inspection travel budget) to implement a vigorous C&E program that meets DEC Program Description commitments and EPA CMS goals.	Delete entire bullet	This is not a factual statement and based on EPA's opinion.
Finding 4-1	**Explanation** Page 25 3rd bullet	DEC's Program Description provides that a compliance committee (CC) meeting must be held in order for a case to be considered for a formal action. For approximately four years (i.e. 2008—2011), routine CC meetings were not scheduled or held.	DEC's Program Description provides that a compliance committee (CC) meeting must be held in order for a case to be considered for a formal action. For **the SRF review period,** ~~approximately four years (i.e. 2008—2011),~~ routine CC meetings were not scheduled or held.	EPA is discussing a four-year period rather than the SRF review period. The four-year period begins at primacy. Note how many CC meetings were held during the SRF review period.
Finding 4-1	**Explanation** Page 25 5th bullet	DEC C&E program capacity building has been delayed and prolonged, due in part to the lack of standard enforcement procedures, document templates, ~~**and other contributing factors discussed herein.**~~	DEC C&E program capacity building has been delayed and prolonged, due in part to the lack of standard enforcement procedures, **and** document templates.	The 'other contributing factors discussed herein', such as travel budget, have had no impact on capacity building.
Finding 4-1	**Explanation** Page 25 6th bullet	The DEC C&E program does not have adequate tools as originally committed to by DEC to make compliance and enforcement action processes efficient. For example,	Delete entire paragraph	DROPS is not a significant factor in enforcement delays. ICIS-NPDES was not even in place at the time when DEC

		DROPS was apparently designed to inventory a permittee's reporting requirements in permits, orders, inspection results, compliance follow-up and enforcement actions. DROPS was also supposed to be capable of generating a risk-based inspection ranking report. DROPS apparently cannot support these functions as originally committed. Consequently, C&E staff must devise other means to track and process data (e.g. track permittee submissions on staff's individual Outlook).		wrote the Program Description. Data systems by their very nature evolve. DROPS is currently undergoing modifications to better serve the Compliance Program's tracking needs. These are expected to be in production by August 2014.
Finding 4-1	**Recommendation** Page 26 Paragraph 1	Complete Enforcement Actions in CY2014–By January 1, 2015, DEC shall complete the 10 formal enforcement actions **currently in DEC's pipeline, as identified by EPA Region 10.** By May 1, 2014, DEC shall submit a summary outline to EPA that identifies the tasks and critical path schedules for each action that will be implemented to meet the CY 2014 deadline. DEC will report case progress on a monthly basis to EPA, with an assessment on whether the action will be completed in CY 2014. If at any time EPA determines there is a potential that an action will not be completed in CY 2014, DEC and EPA will discuss the need for a	Complete Enforcement Actions in CY2014–By January 1, 2015, DEC will complete **9** formal enforcement actions. ~~currently in DEC's pipeline, as identified by EPA Region 10.~~ ~~**Within one month of the Final SRF Report,** DEC will~~ ~~submit a summary outline to EPA that identifies the tasks and critical path schedules for each action that will be implemented to meet the CY 2014 deadline.~~ DEC will **continue to** report case progress on a monthly basis to EPA, with an assessment on whether the action will be completed in CY 2014. If at any time EPA determines there is a potential	DEC will not develop 'critical path schedules' but rather will spend time working on cases to be completed by the end of the calendar year. EPA and DEC discussed the concept of a developing 'critical path schedules' during a February 2014 monthly meeting At that time, the concept was merely a suggestion by EPA with no commitment by DEC. Including this suggestion as an SRF Report recommendation means that the dates will be tracked in the SRF Tracker. This is contrary to what was discussed during the monthly

		change in agency lead for the case. This recommendation is also included under the Finding 5-1 recommendations.	that an action will not be completed in CY 2014, DEC and EPA will discuss the need for a change in agency lead for the case **with the priority being that DEC complete these cases**. This recommendation is also included under the Finding 5-1 recommendations.	meeting. This exercise distracts from actually working on the cases. While DEC will make every effort to complete the 9 cases identified by EPA, unknown problems with these specific cases may mean that other cases will need to be substituted. For example, several of the enforcement cases are based on inspections conducted by staff no longer with DEC. Reconstruction of some of these cases may result in enforcement actions that are not tenable or do not make sense. If DEC is delayed in completing any of these specific cases, other actions will instead be completed. A change of Agency lead must be the last resort. Regardless of timing, DEC should remain the lead agency on these cases.
	Recommendation Page 26 Paragraph 2	<u>Establish Enforcement Procedure SOPs and Time Frame Goals</u>. This corrective action/recommendation has two parts: Part 1 1. **Evaluation of APDES C&E procedures.** DEC will complete an evaluation of its	Delete entirely	DEC disagrees with the recommendation and will not conduct an evaluation of APDES procedures at this time. SOPs and guidance need to be developed before DEC can evaluate their effectiveness.

		APDES C&E procedures to identify performance limiting factors (PLFs) and process improvements regarding the timely development, initiation and completion of formal enforcement actions. The evaluation must recommend remedial or corrective measures and/or procedural improvements regarding any identified PLFs DEC may also want to consider potential tools to create efficiencies, such as administrative penalty authorities or field citations. DEC will apprise EPA of the evaluation results, including remedial and corrective measures and procedural improvements, by June 1, 2014.		Conducting such an analysis at this time is not appropriate. Implementing EPA's recommendation would distract the program from developing the needed procedures. EPA's recommendation to for DEC to consider obtaining administrative penalty authority is beyond the scope of the SRF review. Administrative penalty authority is not a requirement for NPDES program approval.
	Recommendation Page 27	Develop and Implement Enforcement Procedure SOPs and Time Frame Goals. This corrective action/recommendation has two parts: Part 2 2. **Develop and Implement Enforcement Procedure SOPs and Time Frame Goals**. DEC will develop and implement written SOPs and time frame goals and submit these to EPA for review and comment by July 1, 2014 in order to:	□ **Develop and Implement Enforcement Procedure SOPs and Time Frame Goals**. DEC will identify SOPs to be developed in the Two-Year Program Improvement Plan for EPA review and comment. SOPs will include procedures to: Initiate and complete informal and formal enforcement □	More time is needed to development and implement SOPs. SOPs will be identified and prioritized with timeframes in the Two-Year Program Improvement Plan.

		• Initiate and complete informal and formal enforcement actions, including actions using COBCs, compliance orders and ESOs; • ~~Schedule routine compliance committee meetings for the purposes of formal action initiation and development and a written escalation policy to assist staff in implementing the ERG and determining types of cases for formal action;~~ • Develop written procedures on the use of the expedited settlement offer process including the circumstances for its use; • Develop written procedures to ensure adherence to the ERG's range of responses based on identified fact circumstances and for response selection and penalty development taking into account initial date of violation and subsequent violation periods; and • Streamline and expedite internal review procedures with review time frame goals and internal template forms.	actions, including actions using COBCs, compliance orders and ESOs; • use the expedited settlement offer process including the circumstances for its use; • ensure adherence to the ERG's range of responses based on identified fact circumstances and for response selection and penalty development taking into account initial date of violation and subsequent violation periods; and • streamline and expedite internal review procedures with review time frame goals and internal template forms.	DEC already has scheduled routine compliance committee meetings. If no formal enforcement action is proposed, then a meeting does not occur.

Element 5 - Penalties				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
5-1	Page 28	Area for State Improvement	Area for State Attention	DEC met the national goals for metric 11a and 12b.

				The metric 'penalty actions for SRF file selection and review' appears to be made up. If it is not made up, please indicate the national source of this metric so that Alaska's performance can be meaningfully compared with that of other states.
5-1	**Explanation** Page 28 Paragraph 1	Finding 5-1 addresses DEC's performance regarding the ~~completion of a minimum number of penalty actions on an annual basis to conduct SRF review. DEC's initiation and completion of penalty actions is an area for State improvement.~~	Finding 5-1 addresses DEC's performance regarding the penalty calculations reviewed that consider and include gravity and economic benefit, and penalties collected.	Use the metrics assigned to Finding 5-1. As EPA's recommendation notes, the number of formal enforcement actions, including penalty actions, is addressed in Finding 4-1.
5-1	**Explanation** Page 28 Paragraph 3	~~DEC has not taken sufficient penalty actions in any one fiscal or calendar year in the past five years so as to provide the minimum number of penalty actions needed as a sufficient base of information to adequately assess DEC's performance regarding the substantive development and completion of penalty actions.~~ The SRF file selection protocol requires file reviewers to select a minimum of five penalty actions for FY 2012 file selection and review. EPA could only select two penalty action files.	The SRF file selection protocol requires file reviewers to select a minimum of five penalty actions for FY 2012 file selection and review. EPA could only select two penalty action files.	
5-2	Page 29			DEC concurs

Appendix A – DEC C&E Program Improvement Plan				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
	Appendix A		Delete Appendix A	DEC will develop a Two-Year Program Improvement Plan. Appendix A essentially is the beginning of a framework for that Plan from EPA's perspective. Appendix A regurgitates recommendations already included in the Report, but also includes additional recommendations. Appendix A adds confusion to the Report and should be deleted.
Appendix B – Inspection Resource Analysis & Plan for Additional Inspection Resources				
Finding	**Report Section**	**Existing EPA Language**	**Proposed State Language**	**Comment**
	Appendix B Page 1	April 1, 2014 – Initiate analysis May 15, 2014 – Report status for EPA review and comment August 1, 2014 Complete analysis	Delete Appendix B	Not only have all the dates passed, but DEC will not conduct this analysis. Conducting an inspection resource analysis before DEC develops and implements SOPs and guidance is premature. Requiring this analysis now diverts resources from developing and implementing SOPs and recruiting and training staff, which are crucial components of successful implementation of the TwoYear Program Improvement Plan.

				With this recommendation, EPA is simultaneously directing DEC to build the Compliance Program through SOPs and guidance development and staff training and at the same time assess the capabilities and capacities of the staff and program. Until DEC has filled vacancies, trained staff, developed and implemented SOPs and guidance, conducting this analysis is premature.
	Appendix B Page 2	Performance Benchmark EPA will close Inspection Resource Analysis & Plan after DEC successfully meets CMS inspection goals and DEC Program Description commitments for three consecutive calendar years.	Delete Appendix B	EPA is setting up DEC for failure and to be perpetually on probation. Not only will DEC not conduct this Analysis, but DEC also strongly disagrees with this performance benchmark. EPA is not focusing on results. DEC can develop a robust Compliance Program that may not carry out every single commitment identified in the Program Description.

Attachment A to Enclosure 1
Finding 1-1 Area for State Improvement **(change to Area of State Attention)**

EPA claims that DEC did not meet the national goal for files and databases where the mandatory data is accurately reflected in the national data system.

EPA reviewed 28 files reviewed and claimed that 7 files revealed problems.
DEC's review of EPA's results reveals that only 2 of the files reviewed had problems.

Revised Relevant Metric should be 26 out of 28 files had no problems, which equals 92.9%.
The criteria guidance for what percentage triggers an 'area for state attention' is 85% (historical EPA HQ percentage).

File Reviewed	EPA Findings	DEC Response	Action
Alaska Ship's Dry Dock	2011 DMR files not entered into ICIS. The hardcopy DMRs were filed in facility hardcopy file.	Mandatory data was entered into national data system. ICIS shows that 48 DMRs were required and 48 were received.	Change file review to no problem
Anchorage MS4	Facility address in ICIS did not match the facility's correct address.	EPA issued the permit in October 2009 and was directly responsible for data entry; DEC did not have authority for this facility until November 1, 2009. EPA entered this data prior to authority transfer. The address included in the fact sheet that accompanied the EPA-issued permit is correct but does not match the address EPA entered in ICIS.	Change file review to no problem DEC corrected the address in ICIS on June 12, 2014
FedEx – Anchorage (Airport)	NOV was issued July 9, 2012. Cover letter says NOV issued August 9, 2012.	This is not a mandatory data element required to be entered in the national data base.	Change file review to no problem

File Reviewed	EPA Findings	DEC Response	Action
		This is not a data entry error. This is a minor mistake that would fall under Element 2 for improvement.	
North Pole POTW	ICIS shows late DMR for August 2012. DEC system shows timely submittal.	Not Factual. DEC checked and the national database shows this as a timely DMR submittal.	Change to file review no problem
Seward POTW	ICIS shows missing QAPP, facility plan, O/M certification, and other required documents. Hard copies are saved in DEC file.		Will be addressed via Element 2 and SOP development. Should be noted that EPA didn't track this information in the national database.
Pogo	ICIS shows missing annual BMP plan and QAPP Hardcopies are saved in DEC file.		Will be addressed via Element 2 and SOP development. Should be noted that EPA didn't track this information in the national database.
North Pacific Seafoods	Hard copy file of compliance letter requires permittee to revise and submit BMP Plan within 30 days. Not clear if BMP Plan was received – not noted in ICIS.	A compliance letter is an informal enforcement response and not required to be tracked in the national database. EPA never tracked informal enforcement actions in the national database when they were the NPDES program authority. Deficiency would fall under Element 2, which will be addressed through SOP development.	Change file to no problem

Finding 1-2. Data Completeness of Data Entry on Major Permit Limits and Discharge Monitoring Reports

Data Entry on Major Permit Limits
Metric ID 1b2: change from 89.7% to 100%

File Reviewed	EPA Finding	DEC Response	Action
Peter Pan Seafoods Inc. AK0052388	Permit limits not entered in ICIS	The permit does not require submittal of a DMR (DMR is not even defined in the permit). Permit limits have never been entered into EPA's database (prior to or at authority transfer). Permittee is required to submit an Annual Report, which is tracked and entered in ICIS.	Should not be included in metric 1b1. Change file review to no problem
Trident Seafood Corp – Sand Pont Shore Plant AK0052787	Permit limits not entered in ICIS	The permit does not require submittal of a DMR (DMR is not even defined in the permit). Permit limits have never been entered into EPA's database (prior to or at authority transfer). Permittee is required to submit an Annual Report, which is tracked and entered in ICIS.	Should not be included in metric 1b1. Change file review to no problem
Anchorage, City of (MS4) AKS052558		MS4 permit does not require submittal of DMRs, thus there are no permit limits to track.	Should not be included in metric 1b1. Change file review to no problem

Finding 3-1. Accuracy of Determinations.
Inspection reports reviewed that led to an accurate compliance determination (metric 7e)
Area for State **Improvement** – Change to **Area of State Attention** National goal is **85%** accuracy. DEC = **88.2%**

EPA reviewed 17 cases and 4 had issues.
DEC reviewed EPA's results and discovered that only 2 cases had issues.
Revise summary to 17 cases reviewed and 2 had issues. 15 cases / 17 cases = 88.2% meeting the national goal of 85% for 'Attention'.

File Reviewed	EPA Finding	DEC Response	Action
Cordova POTW	Inspection completed July 2012 but inspection report not found.	Inspector had not completed the inspection report, so no inspection report existed to review. Timely completion of inspection reports will be addressed via Element 2 and the development of SOPs. The deficiency should not be counted here.	Change file review to no problem
Ted Stevens Anchorage Airport – Delta Airlines	Inspection report included inappropriate language (conjecture) contradictory language not clear that evidence existed to claim noncompliance	DEC concurs	None
Ted Steven Anchorage Airport – Fed Ex	Inspection report identified a single event violation (SEV), but the SEV was not carried through to NOV.	The inspection report lead to the correct enforcement action – an NOV Not carrying the SEV through to the NOV is a deficiency under Element 2, which will be addressed via SOP development and staff training. EPA double-counted this deficiency.	Change file review to no problem
Ted Stevens Anchorage Airport – AK Airlines	Inspection report did not identify that SWPPP inspections had not occurred, but NOV lists noncompliance for not conducting SWPPP inspections.	DEC concurs	None

APPENDIX D

Metric 4a Inspection Coverages

APPENDIX D: Metric 4a Inspection Coverages

Metric Number	Metric Text	NPDES CMS Target Description	DEC Commitment[1]	CY 2011 Universe	CY 2011 CMS Goal - Inspections Conducted	CY 2012 Universe	CY 2012 CMS Goal - Inspections Conducted	Finding
4a1	Pretreatment compliance inspections and audits	Every five years, two PCIs and one audit at each approved local pretreatment program	Audit at least once in five years and PCI in intervening yrs[2]	1	0 - 0	2[3]	1 - 0	Area for State Improve-ment
4a2	Inspections of SIUs discharging to non-authorized POTWs	One pretreatment inspection and sampling at each SIU annually	Inspect and sample SIUs at least once per year[4]	At least 3[5]	0 - 0	At least 3[5]	0 - 0	Area for State Improve-ment
4a3	State oversight of SIU inspections by approved POTWs	PCIs and audits should ensure authorized POTWs are inspecting 100% of SIUs	Oversight method will be annual inspection[6]	1	0 - 0	2	1 - 0	Area for State Improve-ment
4a4	CSO inspections	One inspection of each CSO every three years	EPA CMS goal[1]	1[7]	0 - 0	1[7]	0 - 0	Area for State Improve-ment
4a5	SSO inspections	SSO inspections scheduled as needed based on information received directly by EPA	EPA CMS goal[1]	Indeter-minate[8]	Indeter-minate - 0	Indeter-minate	Indeter-minate - 0	Area for State Improve-ment
4a6	Phase I MS4 audits or inspections	One audit of each Phase I MS4 by Oct. 2012 and one every five years thereafter; inspections as needed[9]	EPA CMS goal[1]	2[10]	0 - 0	2[10]	0 - 1	Area for State Improve-ment
4a7	Phase II MS4 audits or inspections	One inspection or audit of each Phase II MS4 by Oct. 2014 and one every five years thereafter[9]	EPA CMS goal[1]	2[11]	0 - 0	2[11]	0 - 0	To Be Deter-mined
4a8	Industrial stormwater inspections	Inspections of 10% of the industrial stormwater universe each year	DEC CMS commitment same as EPA CMS goal	206[12]	56[12] - 55[13]	240[14]	58[14] - 26[15]	Exceeds Expecta-tions[16]
4a9	Phase I and II construction stormwater inspections	Inspections of 10% of Phase I and 5% of Phase II construction stormwater universes each year	DEC CMS commitment same as EPA CMS goal	>795 (TBD)[17]	58[17] - 46[18]	>679 (TBD)[17]	49[17] – 20[19]	Area for State Improve-ment[20]
4a10 and 4a11	Inspections of NPDES permitted large and medium CAFOs and non-permitted CAFOs	One inspection of each large and medium permitted CAFO every five years and of each non-permitted CAFO by Oct. 2012 and as needed thereafter	Not Applicable (NA)[21]	NA	NA	NA	NA	NA

1. DEC made some specific inspection and related compliance monitoring commitments in the State's October 2008 Amended Final [APDES] Program Application (approved October 31, 2008) which includes an APDES Program Description (Final October 29, 2008). If DEC did not have a specific Compliance Monitoring Strategy (CMS) plan or commitment for a given CMS inspection area or sector, EPA evaluated DEC against the national inspection coverage goals set forth in the EPA's 2007 NPDES CMS. The inspection numbers in the table's 6th and 8th columns marked in part "CY 2011 CMS Goal" and "CY 2012 CMS Goal" respectively for Metrics 4a1-4a4 and 4a6-4a9 reflect DEC's projections in their proposed 2011 and 2012 CMS and inspection plans. With regard to Metric 4a5 (SSO inspections), DEC did not have a strategy in 2011-2012 to identify and evaluate information on which to propose and conduct SSO inspections; accordingly, the annual SSO inspection projections are identified as indeterminate.

2. *See* DEC Program Description, Section 9.1.4. The State's October 2008 Amended Final [APDES] Program Application (approved October 31, 2008) includes an APDES Program Description (Final October 29, 2008), herein referred to as "DEC Program Description." Without a Program Description modification and subsequent to the Phase II transfer (i.e., October 31, 2009) which included the pretreatment sector, DEC's annual CMS submissions adopt the EPA CMS goal of at least two PCIs every five years.

3. DEC has had pretreatment sector authority and jurisdiction since the APDES Phase II transfer, October 31, 2009. Initially, the Fairbanks/GHU POTW (AK0023451) was the only approved pretreatment program. The North Pole POTW (AK0021393) pretreatment program was approved May 5, 2012.

   DEC's 2012 CMS indicated that a PCI would be conducted in 2012 at the Fairbanks/GHU POTW. DEC subsequently confirmed that the September 2012 inspection was not a PCI. DEC also reported that a pretreatment audit was completed at this facility by Tetra Tech on May 11, 2010 but there are no ICIS entries to corroborate that such an audit was completed and documented. ICIS does not show the completion of any PCI or audit of this facility since completion of the Phase II transfer. No audit report has been provided to EPA as of October 23, 2014. DEC also confirmed that the May 2012 inspection of the North Pole POTW was not a PCI.

   DEC's CY 2013 CMS did not include any proposed PCIs or audits of either of the two POTW pretreatment programs. DEC's decision to not conduct PCIs was due in part to the POTW compliance evaluation inspections (CEI) that were completed in 2012 at each facility. The DEC CY 2013 CMS did not explain why a CEI is relevant to a decision to not conduct the PCI as provided in the EPA CMS or DEC Program Description.

Even if an audit was completed in 2010, DEC will not meet either the EPA CMS goal (two PCIs every five years) or its Program Description commitment (annual PCIs) with regard to PCIs for the Fairbanks/GHU POTW within the first five year term of DEC's pretreatment program. DEC is not meeting its Program Description commitment with regard to PCIs for the North Pole POTW.

If DEC conducted a PCI of the Fairbanks/GHU POTW in 2014, it will have completed 20% of its PCI commitments under the Program Description (annual inspections) and 50% of the EPA CMS PCI inspection goals within the first five years of its pretreatment program for this facility. At this time, DEC has not met its Program Description commitment for annual PCIs for the North Pole POTW, however, DEC has time to meet the EPA CMS for PCIs and an audit within its first five years of overseeing the North Pole POTW pretreatment program.

4. *See* DEC Program Description, Section 9.1.4, which states in part that DEC will inspect and sample SIUs in non-delegated POTWs at least once per year.

5. In accordance with the DEC Program Description, Section 8.3.1, DEC committed that, prior to assuming authority to implement the pretreatment program (i.e., prior to October 31, 2009), it would develop a plan to complete a state-wide industrial survey of all industrial users (IUs) in non-delegated POTWs that might be subject to pretreatment requirements in an effort to identify all facilities meeting the definition of categorical or significant non-categorical industrial users (SIUs). DEC committed to periodically reviewing and updating the DEC SIU inventory. DEC confirmed that this state-wide survey was not completed. DEC reported that a targeted survey of three cities was conducted in late September 2009 using a contractor as part of a capacity building effort to train DEC staff on how to identify SIUs. Ten IUs were identified as potential SIUs but no final DEC SIU determinations were made on these facilities.

   The DEC Program Description, Section 8.13.3, identifies three categorical IUs in North Pole: Petro Star refinery, Golden Valley Energy Association and Flint Hills refinery. As explained in Note 3 above, the North Pole POTW pretreatment program was approved on May 5, 2012.

   DEC's CMS inspection plan submittals for CYs 2010-2013 do not identify proposals for conducting SIU sampling inspections in non-authorized POTWs. DEC reports that an SIU inspection (non-sampling) of the Flint Hills refinery was done in 2010. DEC reports no SIU sampling inspections were done in 2011 or 2012. ICIS only shows evidence of the 2010 Flint Hills refinery inspection.

   In accordance with the DEC Program Description and the EPA CMS, DEC should have conducted annual pretreatment/sampling inspections at the three SIUs in North

Pole from October 31, 2009 through North Pole's pretreatment program approval on May 5, 2012. DEC partially completed one SIU pretreatment/sampling inspection (a non-sampling event) within the first three years of its authority and jurisdiction over the pretreatment sector. At a minimum, DEC should have completed at least six complete SIU pretreatment/sampling inspections over that time period.

6. *See* DEC Program Description, Section 9.1.4. The finding for Metric 4a3 on the need for state improvement is based on the evaluation in Note 3 above for the same finding for Metric 4a1.

7. DEC's only CSO facility is the Juneau-Douglas POTW (AK0023213). DEC reports that its 2010 compliance evaluation inspection (CEI) inspection report identified: (1) the lack of any public notification for CSO occurrences and impacts; (2) that there were no onsite copies of the CSO annual reports; and (3) identification of the POTW's failure to provide a copy of a long-term CSO control plan in accordance with EPA's CSO Control Policy. The Juneau-Douglas POTW is a major facility; accordingly, it is subject to the DEC Program Description commitment of an annual inspection and the EPA CMS goal of one CEI every two years. DEC did not inspect this facility in 2011 or 2012. The facility was on DEC's CY 2013 CMS inspection schedule but recent DEC 2014 submissions indicate the facility was not inspected in 2013 as planned. DEC is not inspecting this CSO facility at least once every three years under Metric 4a4. This Metric 4a4 performance issue could be easily rectified if DEC adhered to its Program Description annual inspection commitment or the EPA CMS goal of once-every-two-years and the inspector included the CSO related facility and permit provisions in the inspections.

8. As of August 2013, DEC did not have a written strategy that identifies and evaluates potential SSO information for the purposes of devising follow-up SSO inspections. In August 2013, DEC indicated that a strategy would be considered as part of their CY 2014 CMS effort. The finding on the need for state improvement is based on the lack of a historic or existing strategy and implementation that has demonstrated DEC's ability to identify and evaluate SSO-related information which has then been used to devise and implement an applicable follow-up SSO inspection strategy. DEC's December 24, 2013 Letter (i.e., CY 2014 CMS) indicates that the 24-hour compliance hotline tracking spreadsheet is now being evaluated for reports of sewer overflows. DEC's August 12, 2014, Letter (i.e., final CY 2014 CMS) indicates that the 24-hour compliance hotline tracking spreadsheet was reviewed to identify reports of sewer overflows and that no inspections are planned in CY 2014 based on this review.

9. *See* Clean Water Act Metrics Plain Language Guide (State Review Framework Round 3), Appendix D. For Phase I and Phase II MS4s, after the initial audit or

inspection conducted within five or seven years of the 2007 NPDES CMS issuance, respectively, the goal is for the state to conduct another audit or inspection with the follow timeframes:

If initial audit/inspection leads to determination of . . .	*Then another audit/inspection should be conducted within . . .*
Full compliance or only minor violations	Five years
Violation(s) requiring enforcement order	One year

10. Port of Anchorage (AKS052426) and City of Anchorage/ADOT (AKS052558). In regard to the City/ADOT MS4, ICIS shows an inspection was conducted in 2012. Additionally, a joint EPA/DEC audit was planned for the City/ADOT MS4 in 2013 as part of a national initiative but the audit is being rescheduled. The Port of Anchorage MS4 has not been audited or inspected since EPA's February 2008 audit and it was not on DEC's CY 2013 CMS for an audit or an inspection in 2013. Accordingly, DEC has not achieved CMS goals regarding the Port of Anchorage MS4. DEC's August 12, 2014, Letter (i.e., final CY 2014 CMS) indicates a goal to inspect the City/ADOT MS4 in 2014 but DEC notes that meeting that goal will be challenging due in part to vacancies and the need for inspector training in the fall 2014.

11. Fairbanks (AKS053406) and Fairbanks/NB (AKS053414). DEC reports that the January 8, 2010, inspections identified in ICIS for these two facilities were not MS4-based programmatic inspections but instead were follow-up responses to complaints received by DEC about illicit discharges to the MS4 systems with a focus on compliance assistance.

    DEC's February 15, 2013, Letter (i.e., CY 2013 inspection schedule) and DEC's December 24, 2013, Letter (i.e., CY 2014 CMS) both state that an audit of the City of Fairbanks MS4 was conducted in January, 2010. EPA has been unable to corroborate whether this audit occurred as stated. DEC's April 23, 2010, Letter (i.e., CY 2010 inspection schedule) does not identify either a planned MS4 inspection or audit of the Fairbanks MS4 in CY 2010. As of October 23, 2014, there are no ICIS entries indicating an audit was done in January 2010.

    Regardless of whether the January 2010 audit occurred, the determination of whether this Metric 4a7 has been met is indeterminate because DEC still has through October 2014 to complete any requisite MS4 audits and inspections. DEC's August 12, 2014, Letter (i.e., final CY 2014 CMS) does not specify any plans to conduct MS4 audits or inspections of these two facilities in 2014.

12. DEC's December 30, 2010, Letter with CY 2011 EPA-based CMS inspection list ("DEC 2011 CMS").

13. DEC SFY 2011 End-Year Inspections Report (Final 7/28/2011), "Inspections Report based on Inspections Performed from 7/1/2010 to 6/30/2011" (4 pages, dated 7/28/2011) and DEC SFY 2012 End-Year Report (July 2012), "Inspections Report based on Inspections Performed from 7/1/2011 to 6/30/2012" (4 pages, dated 7/19/2012).

14. DEC's October 26, 2011, Letter with CY 2012 CMS ("DEC 2012 CMS").

15. DEC SFY 2012 End-Year Report (July 2012), "Inspections Report based on Inspections Performed from 7/1/2011 to 6/30/2012" (4 pages, dated 7/19/2012) and DEC SFY 2013 Mid-Year Report (February 2013), "Inspections Report based on Inspections Performed from 7/1/2012 to 12/31/2012" (2 pages, dated 1/29/2013).

16. DEC's October 26, 2011, Letter with its CY 2012 CMS inspection plan ("DEC 2012 CMS") indicated that DEC had inspected 67 MSGP-authorized facilities to date and proposed a CY 2012 goal of 58 inspections. DEC inspection summaries indicate that only 26 MSGP inspections were accomplished in CY 2012. Accordingly, the three year total (CYs 2010-2012) was 93 inspections (i.e., 67 + 26 = 93). Based on MSGP universes of 206, 206 and 240 facilities in CYs 2010-2012 respectively, DEC needed to conduct approximately 66 inspections to meet the EPA CMS goal of 10% of the universe each year. For the first three years of having stormwater sector jurisdiction, DEC exceeded the EPA CMS goal for MSGP inspections by 27 total inspections or an average of 9 inspections per year (i.e., 93 – 66 = 27).

    While DEC has exceeded the annual EPA CMS goal for MSGP inspections in CYs 2010-2012, DEC's MSGP inspection projections for CYs 2012-2013 indicate that DEC is projected to inspect at an annual rate less than the EPA CMS goal for those two years. DEC's February 15, 2013, Letter (i.e., CY 2013 inspection schedule) projects 22 inspections based on a universe of 264 facilities. DEC's December 24, 2013, Letter (i.e., CY 2014 CMS) projects 14 inspections based on a universe of 290 facilities. If DEC meets these CYs 2013-2014 projections, DEC will have completed a total of approximately 7 more inspections than the EPA CMS cumulative inspection goal for the five year period, CYs 2010-2014, or about 2 inspections per year over the EPA CMS goal.

    In regard to Metrics 4a8-4a9, DEC's combined two-year stormwater sector (i.e., MSGP and CGP) inspection measure for CYs 2011-2012 is approximately 66.5% (i.e., 147/221).

17. Based on the following referenced assessment, DEC's combined two-year construction stormwater inspection measure for CYs 2011-2012 is 62% (i.e., 66/107). For context, DEC's Program Description, Section 9.1.3, states that DEC's annual

facility inspection schedule will include the number of construction stormwater inspections that will be completed under the construction stormwater general permit (CGP). However, the DEC 2011 and 2012 CMS submissions did not identify a specific number of CGP inspections. Instead, DEC indicated that CGP inspections would be done "as time allows" but both CMSs stated that DEC plans to conduct CGP inspections with the goal of meeting the EPA CMS goals of both Phase I 10% and Phase II 5% inspection coverages. The DEC CMSs state that if the CGP inspection goals appear to adversely affect DEC's ability to inspect facilities on its CYs' inspection lists, then DEC would focus on meeting the specific inspections already identified in the CYs' inspection lists.

In addition, DEC data submitted to date do not provide detailed information on the exact universe of *active* total CGP coverages in a given calendar year. For example, DEC CMS submissions for CYs 2013 and 2014 use CGP universes based only on the number of new CGP coverages issued in a particular time period (e.g., number of NOIs submitted and subsequent coverages issued in a year). DEC then applies the Phase I/II 10%/5% criteria to this *new* coverage universe to project its CGP inspection commitments. Accordingly, DEC's projected inspections are likely underestimating what inspection rates are needed to meet EPA CMS goals because DEC is not using the *active* CGP universe as a basis to project inspections needed to meet EPA CMS goals.

Based on this background, EPA staff made estimated projections of what level of inspections was needed in CYs 2011-2012 using some assumptions about a Phase I/Phase II split of the entire universe of CGP coverages and inspections. For purposes of the assessment, it was assumed that the Phase I/Phase II split is 44%/56% respectively for the two calendar years 2011 and 2012. This percentage split is derived from CGP NOI information in DEC 2012 and 2013 submissions which include total NOI issuance counts with Phase I and Phase II splits.

DEC's Capacity Building Summary (March 2013) reported that 795 and 679 CGP authorizations were issued in CY 2011 and CY 2012 respectively but DEC has not been able to generate an actual universal number of active CGP coverages for any calendar year. For the purposes of the assessment, it is assumed the universe is equal to the number of NOIs submitted and coverages granted in the particular calendar year under discussion (i.e., not the *active* CGP universe). Accordingly, the projections of CY 2011 = 58 inspections and CY 2012 = 49 inspections potentially underestimates the number of CGP inspections that DEC needed to complete to meet EPA CMS goals.

18. DEC SFY 2011 End-Year Inspections Report (Final 7/28/2011), "Inspections Report based on Inspections Performed from 7/1/2010 to 6/30/2011" (4 pages, dated 7/28/2011) and DEC SFY 2012 End-Year Report (July 2012), "Inspections Report

based on Inspections Performed from 7/1/2011 to 6/30/2012" (4 pages, dated 7/19/2012).

19. DEC SFY 2012 End-Year Report (July 2012), "Inspections Report based on Inspections Performed from 7/1/2011 to 6/30/2012" (4 pages, dated 7/19/2012) and DEC SFY 2013 Mid-Year Report (February 2013), "Inspections Report based on Inspections Performed from 7/1/2012 to 12/31/2012" (2 pages, dated 1/29/2013).

20. DEC is meeting approximately 62% of its projected CGP inspection goals as an overall number for the two year period, CYs 2011-2012 based on universes that do not accurately factor in all *active* CGP coverages. DEC needs to establish calendar year universes that take into account both NOI submissions/coverage issuances in that year but also coverages for construction projects from past years that are still in existence and active (i.e., construction facilities with multi-year active construction). Finally, DEC completed inspection evaluations should begin deriving separate counts for Phase I and Phase II sites so that a more specific comparison can be made for annual inspection commitment and CMS goal determinations and comparisons. In regard to Metrics 4a8-4a9, DEC's two-year combined stormwater sector (i.e., CGP and MSGP) inspection measure for CYs 2011-2012 is approximately 66.5% (i.e., 147/221). Similarly, the two-year combined stormwater sector inspection measure for SFYs 2012-2013 is approximately 68.9%.

21. DEC's October 26, 2011, Letter with CY 2012 CMS ("DEC 2012 CMS"). The DEC 2012 CMS states that Alaska has no large or medium CAFOs. DEC reported then that the Alaska DNR Division of Agriculture indicates there are just three dairy farms with approximately 250 cows being milked at any one time and one hog farm with 200 animals. Based on an August 2013 inquiry to DNR, DEC reports again that there are no CAFOs in Alaska. In the past, there had been farms with more than 200 beef cattle but none currently exist and no existing dairy or cattle operations are likely exceeding 100 animals.

APPENDIX E

Metric 4b Program Commitments

APPENDIX E:[i] Metric 4b – Program Commitments

Source/Topic	Summary of Task or Activity	Status
A. PD,[ii] Sec. 8.3.1 – Pretreatment Industrial Survey	Prior to assuming pretreatment program authority (i.e. prior to October 31, 2009), DEC will develop a plan to complete a state-wide survey of all industrial users (IUs) in non-delegated POTWs to identify all facilities meeting definition of categorical or significant non-categorical users (SIU).	Plan has not been completed. State-wide survey of IUs has not been conducted.
B. PD, Sec. 8.3.1 – Pretreatment Industrial Survey	DEC will periodically review and update the IU inventory.	Absent state-wide IU survey, there has been no periodic review or update.
C. PD, Sec. 8.11 – Reporting; *see also* MOA,[iii] Sec. 5.02, No. 8	DEC will develop procedures and time frames for reviewing monitoring SIU reports, including reports submitted by POTWs and semi-annual reports submitted by categorical and significant non-categorical IUs without local programs.	Procedures and time frames have not been established.
D. PD, Sec. 8.12 – Reporting to EPA; *see also* MOA, Sec. 8.01, Table 1, No. 20	DEC shall provide EPA with the following information: • Annual report on program implementation from POTWs with approved pretreatment programs. • Pretreatment facility inspection and sampling plan for POTW audits/ PCIs and IU inspections. • Noncompliance report for all SIUs. • [MOA] Copies of SIU inspection reports, reporting results, noted violations and enforcement actions within 60 days of inspection or receipt of information DEC will track receipt of required reports, noncompliance, inspection results and compliance dates in DROPS.	The pretreatment facility inspection and sampling plan for POTW audits and PCIs, and IU inspections has not been submitted to EPA. Based on current DEC information, it appears this plan has not been developed. DEC is working to implement several compliance-related reporting tools in DROPS which will facilitate preparation of these reports to EPA.
E. PD, Sec. 9.1.1 – Annual Compliance Evaluation of Major Permittees	DEC's goal is to conduct a compliance evaluation of all major permittees at least once per calendar year prior to generation of 4th quarter QNCR in accord with Section 9.1.1, Items 1-8. Notification of noncompliance to permittee & enforcement action as necessary.	DEC reports that evaluations are done by reviewing the QNCR itself. No documentation of these QNCR reviews is created and there are no results entered into DROPs on a routine basis. In response to the draft SRF

	All follow-up actions will be documented in DROPS.	report, DEC indicated it is prioritizing development of SOPs; a procedure for compliance evaluations will be one of the items addressed.
F. PD, Sec. 9.1 – Compliance Monitoring; Sec. 9.4 – Enforcement Program; *see also* MOA, Sec. 6.03, No. 2	DROPS will maintain an inventory of . . . permittee reporting requirements in permits and orders, inspection results, permittee compliance follow-up, enforcement actions and compliance schedules. DROPS database will aid DEC in meeting C&E obligations by generating timely reports and by providing staff immediate access to compliance information. [MOA] The DROPS database will track the submittal of all reports on date-related permit conditions or other schedules in effect pursuant to the permit (e.g., required reports, Notices of Violation, Administrative Orders, Consent Agreements, and court orders).	DROPS does not currently have an inventory of permit requirements, including reporting requirements. Deadlines or schedules for reports or actions identified in inspection reports, compliance letters, notices of violation, etc., are tracked by DEC inspectors individually on the inspector's Outlook system DEC reports it is implementing compliance modules in DROPS and developing standard operating procedures for inventorying permit conditions into a standard format in the WPC (for which DROPS serves as the gateway).
G. PD, Sec. 9.1.3, Inspection Prioritization and Scheduling	Except for construction stormwater sites, DEC will use the Division of Water's *Wastewater Risk-Based inspection Ranking Model* as a guide to help prioritize and schedule inspections. The model involves a comprehensive survey using a point system to identify facilities that pose a higher risk to human health or the environment. The Model criteria and point system are incorporated into the DROPS database to generate a ranked report. DEC will use the report as a guide to develop an annual facility inspection schedule.	DROPS does not currently have the modules needed to accept input data related to the model criteria. DEC has not been using this model and has not generated ranked reports for annual inspection planning and scheduling purposes.
H. PD, Sec. 9.1.5, Post Inspection – Inspection Reports. *See also* MOA, Sec. 3.01, Items 2a) & d); Sec. 8.01,	DEC will use DROPS to prepare an inspection report and an electronic copy of the inspection report will be stored in DROPS and a hard copy will be filed in the facility file. DEC will use EPA's NPDES Compliance Inspection Manual as guidance for completing an inspection report. DEC will use EPA's form 3560-3 and the APDES Inspection Report template (PD, Appendix E).	As part of an EPA oversight inspection of a DEC inspector in October 2012 and post-inspection oversight work, EPA was apprised that DEC had a practice of only preparing post inspection letters instead of formal inspection reports, even for major

Table 1, Item 22	DEC intends to send the final inspection report to the inspected facility. The cited MOA provisions are in regard to DEC informing EPA of program changes. Provisions provide in part that DEC will keep EPA fully informed and up to date regarding draft and final policy and program development documents and draft and final technical guidance and policies.	facility inspections. EPA had not been informed of this DEC practice prior to EPA's oversight inspection and post inspection work. EPA brought concerns regarding this DEC practice to DEC's attention in subsequent communications. DEC acknowledged the practice was not in accord with the Program Description. It is EPA's understanding that the practice was terminated. DEC plans to adopt an SOP and potentially applicable templates to streamline the inspection report process for facilities where no areas of concern are identified during APDES inspections.
I. PD, Sec. 9.4 and Appendix K – Inspector Training and Credentials	Staff will have training and experience appropriate for their assigned responsibilities. Staff occupying positions where the position description includes inspections as work duties will be required to obtain approved enforcement training. *See, e.g.,* PD, Appendix K, Water Division Staff Credentials for Inspector/Enforcement Officer.	In DEC PPG APDES inspection submissions for 2010-2012, a DEC Permits Unit staff person is credited with completing nine major APDES mine facility inspections. DEC later indicated that this staff person did not have DEC issued inspector credentials. In response to the draft SRF report, DEC indicated that the staff person conducted site visits and incorrectly logged the information into DROPS as inspections. DEC stated that it does not allow non-credentialed staff to conduct inspections. Based on DEC's response, there is no follow-up recommendation or corrective action for this.
J. PD, Sec. 9.4.6 – DOL Involvement	• DEC and DOL have established procedures for the routine coordination of enforcement cases, including DOL participation in the Compliance Committee and coordination of general time frames for actions from case referral to filing.	As of August, 2013, it is EPA's understanding that written procedures for DEC/DOL coordination have not yet been developed but are under consideration for development as

	• DEC shall maintain procedures to assure coordination with DOL that results in timely review of initial referred packages . . . timely filing and prosecution of referral cases. • As a general rule, DEC cases should proceed from referral to filing within 90 days.	standard operating procedures (SOPs).
K. PD, Sec. 9.1.4 – Types of Inspections	• DEC will cross-train other DEC staff and other state agencies (e.g., F&G, DNR) to provide enough knowledge to identify problems or violations when at a facility conducting other business. • Cross trained staff will report back to DEC C&E program and DEC may conduct an inspection. • Cross trained staff may also conduct follow-up inspections to verify a previously identified compliance issue has been addressed.	DEC reports there has been no formal cross-training activity and no current plans for cross training with other agencies. DEC indicates it regularly works with DNR and DFG in various sectors (e.g., mining, seafood and construction).
L. MOA, Section 8.01, Table 1, Item 18, Submission of copies of all enforcement actions; Performance Partnership Grant, SFY 2014, Workplan, Sec. V.1.	DEC will transmit to EPA copies of all enforcement actions ranging from Compliance Letters to administrative and judicial actions for major and minor facilities.	DEC did not routinely submit copies of enforcement actions. It appears that this submission obligation was delegated to individual staff persons without follow-up oversight or coordination by the DEC C&E program manager. Not all DEC staff would make the requisite submissions on a routine basis. DEC's submissions under this MOA provision have been almost non-existent in the last half of CY 2012 and a substantial portion of CY 2013.
M. Performance Partnership Agreements, SFYs 2011, 2012 & 2013 (APDES Program	Prior to quarterly meetings, DEC will provide a summary document that details facility specific violations (e.g., based on inspections and file reviews) and DEC's enforcement response. These reports will include, in part, descriptions of the violations, date of violation, DEC enforcement response and date of DEC response.	DEC quarterly submissions, when made in response to these PPA/PPG provisions, do not contain the facility specific violations, descriptions of the violations and dates of violation.

Capacity Development and Implementation) and Performance Partnership Grant, SFY 2014		
N. Clean Water Action Plan, Integrated Work Plan, 10/31/12-6/30/13	Placer Mines – DEC will determine compliance with Annual Report (AR) submittal requirements. DEC will send compliance assistance reminder letters in fall 2012 to medium and mechanical placers in regard to the AR submission requirement. DEC will send notices of violation (NOV) for noncompliance if ARs are not submitted by January 31, 2013.	DEC sent approximately 495 letters in late 2012. Due to other priorities, DEC did not track the number of Annual Reports received. It is EPA's understanding that DEC did not issue NOVs as provided for in the Integrated Work Plan. In response to the draft SRF report, DEC acknowledged that it did not conduct timely enforcement regarding annual report submission violations in 2013. However, DEC also stated it mailed annual report reminder letters in January 2014 and intends to include a full summary of their outreach and corresponding enforcement actions in their 2015 CMS submission. EPA will revisit this during EPA/DEC discussions of the 2015 CMS plans.

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[i] Except as noted or updated, the Status summaries reflect EPA's evaluation and DEC input at the time of completion of the draft SRF report (e.g. April, 2014).

[ii] PD = APDES Program Description (Final, October 29, 2008), submitted by Alaska Department of Environmental Conservation, Amended Final Program Application (Approved: October 31, 2008).

[iii] MOA = National Pollutant Discharge Elimination System Memorandum of Agreement between State of Alaska and United States Environmental Protection Agency, Region 10 (Final October 29, 2008; Amended Date August 11, 2011).