# State of Colorado Department of Public Health and Environment
# Air Pollution Control Division
# Compliance & Enforcement Program and Stationary Sources Program
# Enforcement Program End of Year Report for FY2017

## Introduction

The End of Year Report for the Colorado Department of Health and Environment (CDPHE) implementation of compliance and enforcement provisions of the Clean Air Act (CAA) consists of a review of the annual commitments within the performance partnership agreement, data metrics from the ECHO report, and a discussion on the status of recommendations from the State Review Framework (SRF) review.

## Oversight Level

This is a report resulting from a baseline level of oversight.

## Program Highlights

The CDPHE continues to have an effective air enforcement program. Colorado completed 193 enforcement actions and collected $1,786,775 in penalties and SEPs. EPA appreciates the effort the State takes in discovering and quickly resolving non-compliance.

The CDPHE staff has been very cooperative and responsive to Region 8 in answering CAA compliance-related inquiries. EPA Region 8 continues to meet with CDPHE staff on a quarterly basis to discuss HPV case status, amongst other air enforcement items.

Region 8 appreciates and benefits from the continuing support Colorado provides on EPA's national enforcement initiatives including reducing air pollution from the largest sources and cutting hazardous air pollutants. Colorado has also been an asset and a national leader in assisting with EPA's enforcement initiatives by continuing their infrared camera inspections and jointly working with Region 8 on multiple energy extraction enforcement cases. Colorado's timely response for requested information and technical assistance is essential for the successful completion of these evaluations and enforcement actions.

Additionally, the State has established a program to conduct unannounced portable analyzer testing of station engines during FY17. This project is an information gathering and compliance assistance initiative at this point and is modeled after a similar program in Wyoming.

## Areas of Concern

There were several issues noted during the FY15 SRF process with respect to needed improvements in data accuracy and timeliness of High Priority Violator (HPV) determinations. In regard to timely reporting of HPV determinations into ICIS (Metric 3a2), the state has improved its performance from the FY15 SRF but still has room to improve with only a 66.7% rate of timely reporting of HPV determinations into ICIS-Air. It should be noted that the State's data is uploaded to ICIS-Air monthly and because of this database setup the state was 10 days late in reporting HPV to ICIS-Air.

**Annual Data Metrics Analysis (ADMA) Results**

This is an end of year review, not a full state review framework (SRF). Instead of analyzing each data metric, a representative sample of data metrics will be reviewed below. The ECHO/SRF Data used in this review are included in the Appendix at the end of this report.

**Element 1: Data**

For data metric 3b1, timely reporting of compliance monitoring minimum data requirements, the State exceeded that national average of 82.3%, with 96.4% from a universe of 639 facilities.

For data metric 3b2, timely reporting of stack tests and stack test results, the State exceeded that national average of 67.1%, with 91.3% from a universe of 320 facilities.

For data metric 3b3, timely reporting of enforcement MDRs, the State exceeded the national average of 77.6%, with 94.5% from a universe 145 enforcement actions. The State had a significant drop in metric 3b3 between FY14 and FY15, 86.3% to 21.9% respectively. However, since FY15 the State showed significant improvement in their timely reporting of enforcement MDRs and has exceeded their previous high level of performance produced in FY14.

For data metric 3a2, timely reporting of HPV determinations, the State exceeded the national average of 40.5%, with 66.7%.

**Element 2: Inspections**

Data metric 5a indicates that 187 out of 201 Full Compliance Evaluations (FCE) at major source facilities were completed by the State in FY17, which exceeded the national average of 88.7%. However, the state committed to inspecting 186 major sources in their FY17 CMS plan. As such they have exceeded 100% of their commitments for FY17.

Data metric 5b indicates that 103 out of 196 (52.6%) FCEs at 80% Synthetic Minor (SM-80) facilities, were completed by the State in FY17, which fell significantly short of the national average of 93.7%. However, metric 5b is not representative of the State's performance being that the State only committed to inspecting 102 SM80s in their FY17 CMS. Considering the State's FY17 CMS inspection plan, they exceeded 100% of their SM80 inspection commitments.

The State was above the national average of 76.7% for data metric 5e, which covers review of Title V annual compliance certifications completed, by reporting 89.3% (134) from a universe of 150 facilities. Per the State's FY17 CMS plan, the state has a total of 208 major sources, with only 167 of those 208 sources actually having issued active Title V permits for FY17 (therefore needing to submit a Title V ACC). The State reviewed 177 Title V ACC in FY17. Correcting this metric to reflect the true universe of major facilities that have issued Title V permits for the state, the metric would be 105% (177 of 167). The extra 10 ACCs came from sources that submitted 2 ACCs, one to close out the old permit and another to meet the reporting period in their new Title V permit.

**Element 3: Violations**

The State's HPV discovery rate per major facility universe was 0.4%, as compared to the national average of 2.3%. The State's HPV discovery rate has dropped from last year's high discovery rate of 1.6% for FY16.

The State's FRV discovery rate per inspection at active CMS sources was 3.3%, as compared to the national average of 6.2%. The State's performance with respect to this metric has remained steady in comparison to FY16 (3.9%).

Data metric 13 indicates that only 2 of 3 (66.7%) of HPV identified were timely reported, comparted to 87.7% national average. However, the database incorrectly set the Day Zero date for the one HPV that isn't counted for this metric. The State and EPA have agreed that determining Day Zero dates for HPV cases of a failed stack test should be based on 90 days after the date the test report was received and not from the date of the stack test. For the one HPV that was not counted as timely reported, it was based on a failed stack test that was conducted on 4/6/17 with the report received by the State on 5/10/17 and the HPV identified by 8/8/17 which meets the 90-day requirement for identifying and reporting HPV violations. The corrected data metric should show 3 of 3 HPVs were identified and timely reported to ICIS-Air.

**Element 4: Enforcement**

Data metric 10a1 indicates that the State addressed 1 of 1 (100%) HPV cases within 180 days, compared to the 63.7% national average. The State has seen a significant increase of this metric year over year. In FY15, the State had a 13.3% rate of addressing HPVs within 180 days, compared to 62.5% in FY16 and now 100% in FY17.

Data metric 10b1 shows that the State had only one HPV that was addressed in FY17 and that it addressed without a formal enforcement action. However, this HPV was settled with formal enforcement via a Compliance order on Consent that was signed on August 9, 2017.

**Annual Commitments**

Colorado submitted its CAA Compliance Monitoring Strategy (CMS) in a timely manner prior to October 1, 2016 as required by the Performance Partnership Agreement. The CMS indicates that the Oil and Gas Team (Stationary Sources Program) remains separate from the existing Compliance Monitoring Unit (Compliance & Enforcement Program) but the Compliance & Enforcement Program is responsible for ensuring the Division meets all the inspection and enforcement obligations as required by EPA policies and is responsible for the enforcement activities of both units.

In FY17, the State committed to conducting a Full Compliance Evaluation at 186 of the 208 major source facilities that were included in the FY17 CMS Plan. The State also committed to performing a series of Partial Compliance Evaluations at several major sources and one mega site. The State committed to inspecting 102 out of 208 SM-80 sources, or synthetic minor sources that are emitting 80% of their major source levels. The State conducted the Full Compliance Evaluations (and the Partial Compliance Evaluation at the mega site) consistent with the commitments of the FY17 CMS Plan. In addition to major sources and SM-80 sources, the State also conducts numerous inspections each year at synthetic minor and true minor facilities.

**SRF Follow-up**

The SRF for FY2015 found that the State needed to improve the accuracy of the minimum data requirements reported to ICIS-Air and the timely reporting of stack test dates and results. No specific recommendations were required to address these concerns in the SRF Report.

**Planned Oversight Activities**

EPA and the State will continue to have quarterly meetings regarding the following activities:

- Routine communication and information sharing;
- High Priority Violations and enforcement actions;
- Collaborative research efforts;
- Data Metrics review focusing on significant changes in performance and on areas of concern from previous reviews;
- Oversight activities including those required by nation program guidance (e.g. oversight inspections);
- Follow-up on open action items/recommendations from previous reviews including those identified in the SRF Tracker.

# Appendix

| Element | Metric ID | Metric Name | Metric Type | Agency | National Goal | National Average | CO | Count | Universe | Not Counted |
|---|---|---|---|---|---|---|---|---|---|---|
| **Element 1 - Data** | | | | | | | | | | |
| | 3a2 | Timely reporting of HPV determinations into ICIS-Air | Goal | State | 100% | 40.50% | 66.70% | 2 | 3 | 1 |
| | 3b1 | Timely reporting of compliance monitoring MDRs | Goal | State | 100% | 82.30% | 96.40% | 616 | 639 | 23 |
| | 3b2 | Timely reporting of stack tests and stack test results | Goal | State | 100% | 67.10% | 91.30% | 292 | 320 | 28 |
| | 3b3 | Timely reporting of enforcement MDRs | Goal | State | 100% | 77.60% | 94.50% | 137 | 145 | 8 |
| **Element 2 - Inspections** | | | | | | | | | | |
| | 5a | FCE coverage: majors and mega-sites | Goal | State | 100% | 88.70% | 93% | 187 | 201 | 14 |
| | 5b | FCE coverage: SM-80s | Goal | State | 100% | 93.70% | 52.60% | 103 | 196 | 93 |
| | 5c | FCE coverage: minor and synthetics minor (non-SM80s) sources that are part of a CMS Plan and Alternative CMS Facilities | Goal | State | 100% | 85.80% | NA | 0 | 0 | 0 |
| | 5e | Reviews of Title V annual compliance certifications completed | Goal | State | 100% | 76.70% | 89.30% | 134 | 150 | 16 |
| **Element 3 - Violations** | | | | | | | | | | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 7a1 | FRV 'discovery rate' based on evaluations at active CMS sources | Support | State | | 6.20% | 3.30% | 22 | 663 | 641 |
| | 8a | Discovery rate of HPVs at majors | Support | State | | 2.30% | 0.40% | 1 | 237 | 236 |
| | 13 | Timeliness of HPV Identification | Goal | State | 100% | 87.70% | 66.70% | 2 | 3 | 1 |
| **Element 4 - Enforcement** | | | | | | | | | | |
| | 10a1 | Rate of Addressing HPVs within 180 days | Support | State | | 63.70% | 100% | 1 | 1 | 0 |
| | 10b1 | Rate of managing HPVs with an NOV or NOW or no action | Support | State | | 12.90% | 0% | 0 | 1 | 1 |