Air Compliance Assurance Process Guidance

Objective: The purpose of this report is to document the Air Compliance Assurance business process and define the activities that take place, the results that may occur and the compliance status that is generated as a result.

Contents

Compliance Assurance Overview

The Compliance Module of the Air Resources Management System (ARMS) is designed to capture and report the information associated with compliance activities at a regulated facility. Therefore, it is important to define the business process related to that data.

Air compliance at a facility is determined through one of four *compliance categories*. These categories are Inspections (INSP), Tests and Reports (TSTRPTS), Annual Operating Reports (AOR), and Continuous Emissions Monitoring Systems (CEMS). Within each of these categories specific *activities* should occur based on a facility's permit conditions and Florida's Air Regulations.

For each activity that allows a compliance result, Significant Non Compliance occurs in instances of:

excess emissions,
no monitoring,
no permit,
no reporting or record keeping,
failure to operate or maintain a proper pollution control device, or
repeat violations.

For each activity that allows a compliance result, Minor Non Compliance occurs in instances of:

no monitoring - only in certain situations, such as when the CEMS was installed or certified within ten days after the required date of installation or certification, or the CEMS was not properly maintained for ten days or less.

improper recordkeeping or reporting - it can be determined that no environmental harm was done or that the public health was not threatened.

Note: *Minor Non Compliance is not applicable to excess emissions and no permit for major emission units or some minor emission units as defined in the* *<u>Guidelines for Characterizing Air Violations</u>*. *Minor Non Compliance is not applicable in situations where it was determined that a source had failed to properly operate or maintain a pollution control device.*

The premise of the ARMS Compliance Module structure is that an activity that determines a non-compliance result must be resolved through opening a violation in ARMS. Due to the importance of activities effecting the compliance status of a facility, it is imperative to properly determine the amount of compliance oversight performed by each office and the rules for entering compliance activities in ARMS. These rules are discussed in this document under the activity usage section for each Compliance Assurance Category.

Activity Types

Under each Compliance Assurance Category, there are activities that track complaints, the normal compliance oversight of a facility, and the resolution of a violation at a facility. There are also ways to track optional activities such as phone calls. Therefore, within each Compliance Assurance Category, activities are grouped as: 1) compliance, 2) resolution, 3) either compliance or resolution, 4) complaint, or 5) ALL.

Activities strictly used in compliance activities are termed **Compliance.** An example of a compliance type activity is the annual compliance inspection.

Activities strictly used in a violation resolution are termed **Resolution.** An example of a resolution type activity is the issuing of a warning letter.

Activities used in compliance or violation resolutions are termed as **Either Compliance or Resolution.** An example of an either compliance or resolution activity is a Stack Test Report Review. For compliance purposes, the activity determines a scheduled pollutant test. For violation purposes, if there is a test failure or an inconclusive test result, the activity determines a back in compliance.

Activities used in a complaint inspection or investigation are termed **Complaint.** An example of a complaint activity is a complaint inspection.

Activities used in all Compliance Categories and in complaints, are termed **ALL.** An example of an ALL type activity is a phone call.

Inspections

An inspection is an activity conducted by the Department's personnel or by personnel of approved County Programs verifying the compliance status of a regulated facility. There are four levels of inspection:

- A Level One inspection consists of a drive by and is used to verify in compliance by shut down.
- A Level Two inspection is a walk through and is used to verify compliance by review of records and easily accessible monitoring devices such as pressure gauges or digital readouts.
- A Level Three inspection includes those activities of a Level Two inspection and includes engineering measurements such as stack exhaust temperature or mass flow rates.
- A Level Four inspection includes the activities of a Level Three inspection plus the inclusion of detailed engineering analysis such as the evaluation of a control device. Department personnel rarely perform Level Four inspections.

The Inspection Compliance Assurance Category centers on tracking compliance activities that are compliance measures, such as inspections or file reviews, prior to an inspection. Additional activities associated in this category and in others are not compliance determining activities but are provided for other tracking purposes, such as pollution prevention or as requested by the District or County Program personnel.

INSPECTION ACTIVITY DEFINITIONS

All activities in the Inspection Compliance Assurance Category are listed below. Both the activity code value and a brief description are given.

INSPECTION CATEGORY
COMPLIANCE MEASURING ACTIVITIES:

Code Description

FR File Review

This activity code refers to the review of compliance files prior to an inspection. It is a measuring activity because compliance status can be altered by a determination in the file.

FUI Follow Up Inspection

This activity code refers to an inspection that is conducted as a response to a previous inspection that indicated a compliance problem at the site.

INS1 Compliance Inspection, Drive By
This activity code refers to an inspection that is conducted to verify in compliance by shut down.

INS2 Compliance Inspection, Walk Through
This activity code refers to an inspection that is conducted on site during normal business hours. The inspector reviews the facility's records and checks readily available operating data
.
INS3 Compliance Inspection, Detailed
This activity code refers to an inspection that is conducted on site during normal business hours. The inspector reviews the facility's records and checks readily available operating data and witnesses stack test runs, etc.
.
INS4 Compliance Inspection, INS3 with Professional Engineering Design Evaluation
This activity code refers to an inspection that is conducted on site during normal business hours. The inspector reviews the facility's records and checks readily available operating data. A professional engineering evaluation of the facility's control devices is also done.

PI Permit Inspection
This activity code refers to an inspection that is conducted on site during normal business hours. The inspector reviews the facility's construction status and verifies that the construction is as permitted.

MRR Miscellaneous Report Review
This activity code refers to the review of miscellaneous reports prior to an inspection. It is a measuring activity because compliance status can be altered by a determination in the report.

STO Stack Test Observed. For Area Sources, observation of performance tests using prescribed test methods.

OTHER INSPECTION CATEGORY ACTIVITIES:

<u>Code Description</u>
P2PP Pollution Prevention Project Plan
This activity code refers to the compilation and review of a Pollution Prevention Project Plan prior to an inspection. It is not a measuring activity because compliance status cannot be altered by a determination in the file.

SAIT Self Audit Initiated Plan
This activity code refers to the compilation and review of a Self Audit Plan prior to an inspection. It is not a measuring activity because compliance status cannot be altered by a finding in the file.

OPTIONAL INSPECTION CATEGORY ACTIVITIES:

Code	Description
CALL	Telephone Conversation

This activity code refers to a phone call that staff personnel wish to track.

CMTG Compliance Meeting

This activity code refers to a meeting held to discuss compliance topics.

INSPECTION RESULTS

Compliance measuring activities are those activities for which a change in compliance status can occur. Those activities can result in a status of In compliance, Minor out of compliance or Significant out of compliance. The air workplan that was written as part of the federal fiscal year 1997 Performance Partnership Agreement identified non substantive procedural violations for which no reporting or formal enforcement is required. The list of violations that can be considered Minor out of compliance for major facilities includes those listed. There are other violations that can be considered minor, but those violations must be identified on a case-by-case basis.

Tests and Reports

The Tests and Reports category in the Compliance Assurance Module is used to track activities that are performed to receive, review and evaluate the different types of compliance information required by statute, rule or permit. Examples of these are stack test reports, excess emission reports, the semiannual Title V reports and the annual compliance certifications. In addition, this category tracks the observations of stack tests including the Department's own EPA Method 9 observations.

With the placement of tests and reports related activities in the Tests and Reports Category, a facility's compliance status may be judged in terms of the compliance results. These results will have been achieved based on the pollutant test report reviews for Point and Area sources, VE test report reviews, test details, fuel analysis report reviews, file reviews regarding missing test reports or analyses, the Title V Statement of Compliance report review, and miscellaneous report reviews.

TESTS AND REPORTS CATEGORY
COMPLIANCE MEASURING ACTIVITIES:

Code Description

FAR Fuel Analysis Report
This activity code refers to a review of fuel analysis reports to determine compliance with the permitted fuel type and content.

FR File Review
This activity code refers to the review of compliance files received from the regulated community. It is a measuring activity because compliance status can be altered by a finding in the file.

MRR Miscellaneous Report Review
This activity code refers to the review of miscellaneous reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding in the report.

SOCR Statement of Compliance Report Review
This activity code refers to the review of miscellaneous reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding in the report. For Area Sources this activity would include the annual solvent emissions report.

STR Stack Test Report Review
This activity code refers to the review of stack test reports received from the regulated community. It is a measuring activity because compliance

status can be altered by a determination of noncompliance in the report. For the purposes of Area Sources this activity is used to track the review of submitted test results.

VER Visible Emission Test Report Review
This activity code refers to the review of visible emission test reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding of noncompliance in the report.

STO1 Stack Test Observed, Type I Audit
This activity code refers to the review of a stack test being conducted from beginning to end by the regulated community or their contractor. It is a measuring activity because compliance status can be altered by a determination of noncompliance during the test. For the purposes of Area Sources this activity would track observation of performance tests using prescribed test methods.

STO2 Stack Test Observed, Type II Audit
This activity code refers to the review of a stack test being conducted for one or more runs by the regulated community or their contractor. It is a measuring activity because compliance status can be altered by a finding of noncompliance during the test.

VEO Visible Emission Test Conducted
This activity code refers to the performance of a Method 9 visible emission test by the inspector at the regulated facility. It is a measuring activity because compliance status can be altered by a finding of noncompliance as a result of the test.

Optional Tests And Reports Category Activities*:*

Code Description
CALL Telephone Conversation
This activity code refers to a phone call that staff personnel wish to track.

CMTG Compliance Meeting
This activity code refers to a meeting held to discuss compliance topics.

COMPLIANCE STATUS RESULTS

Compliance measuring activities are those activities for which a change in compliance status can occur. Those activities can result in a status of In compliance, Minor out of compliance or Significant out of compliance. The air workplan that was written as part of the federal fiscal year 1997 Performance Partnership Agreement identified non substantive procedural violations for which no reporting or formal enforcement is required. The list of violations that can be considered minor out of compliance for major facilities includes those listed. There are other violations that can be considered minor but those violations must be identified on a case-by-case basis.

Annual Operating Report (AOR)

The Annual Operating Report records the total operation and emissions from a facility on an annual basis. This report is due March 1 of the following year.

The AOR is reviewed by staff in district/local offices to ensure the correctness of emissions calculations and that the best available estimation methods are used. Then the data are entered into the inventory module of ARMS and checked using the AOR Edit report. The purpose of the edits is to catch data entry errors and to ensure certain permit limitations are updated in the database. At the same time, violations of permit conditions might be found. The compliance status of each emissions unit with respect to AOR should be determined at this time and entered into the compliance assurance module in ARMS.

ANNUAL OPERATING REPORT CATEGORY

Compliance Measuring Activities*:*

The compliance activities applicable for this category are listed below:

Code Description

AOR: Annual Operating Report Review
Use this activity for AOR review (required).

FR: File Review
Use this activity when a facility fails to submit the AOR (required). In most cases, this is the only time you need to enter this activity.

Optional Annual Operating Report Category Activities:

Code Description

CALL: Telephone Call
Use this activity for phone calls made concerning AOR (optional).

CMTG: Compliance Meeting
Use this activity for meetings concerning AOR (optional).

Compliance Status Results

The first activity (AOR) may have one of the following results:

1. In compliance: The emissions unit is in compliance. Use this result if the AOR data does not show any exceedance concerning permit conditions.

2. Minor out of compliance: The emissions unit is minor out of compliance. Use this result for cases of excess process rate, ash content, sulfur content, heat input, or operating schedule with no emissions exceedance; or if the AOR was late by more than thirty days.

3. Significant out of compliance: The emissions unit is significant out of compliance. Use this result for emissions exceedance only.

The second activity (FR) may have one of the following two results:

1. In compliance: The emissions unit is in compliance. Use this result when the AOR is received.

2. Minor out of compliance: The emissions unit is minor out of compliance. Use this result when a facility fails to submit the AOR within thirty days of its due date.

The CALL and CMTG activities do not have any result.

Continuous Emissions Monitoring System (CEMS)

A Continuous Emissions Monitoring System (CEMS) measures emissions from an emission unit on a continuous basis.

The CEMS reports are reviewed by staffs in district/local offices to ensure the performance of CEMS and correctness of emissions calculations. Then the data are entered into the inventory module of ARMS. The compliance status of each emission unit concerning CEMS should be determined at this time and entered into the compliance assurance module in ARMS.

CEMS Report Review Activities*:*

CGA Calibration (Cylinder) Gas Audit Report Review
This activity code refers to the review of any Cylinder Gas Audit (CGA) report. A Minor Non Compliance should be entered if the applicable linearity (CGA) criteria are not met.

CMSR Continuous Monitor System Report Review
This activity code refers to the review of Continuous Monitor System Reports. The review of quarterly reports of emissions monitored by CEMS is a CMSR activity. The amount of excess emissions and CEMS downtime should be entered into ARMS.

For sources that do not use CEMS as Method of Compliance:

a) If excess emissions and/or CEMS downtime is < 2%, the emission unit is In Compliance.

b) If excess emissions and/or CEMS downtime is >= 2% and <= 5% for two consecutive quarters or > 5% for one quarter, the emission unit is Minor Out of Compliance.

c) If excess emissions and/or CEMS downtime is > 5% and <= 10% for two consecutive quarters or > 10% for one quarter, the emission unit is Significant Out of Compliance.

For sources that use CEMS as a Method of Compliance:

a) Minor Non Compliance is not applicable to excess emissions. If excess emissions are >0% (other than start up, shut down, calibration tests, etc. as specified in the rule), the emission unit is Significant Out of Compliance.

RAA Relative Accuracy Audit Report Review

This activity code refers to the review of Relative Accuracy Audit (RAA) reports. RAAs conducted pursuant to 40 CFR 60, Appendix F, must meet the criteria of Appendix F, (http://www.dep.state.fl.us/air/enhancd/FedReg/60/F.PDF) including the criteria in Section 5.2.3, Excessive Audit Inaccuracy, unless other criteria are specified in the applicable subpart. If the criteria are not met, a Minor Non Compliance entry should be made. In the case of 40 CFR 75, a Minor Non Compliance should be entered if the applicable RA criteria are not met.

RATA Relative Accuracy Test Audit Report Review

This activity code refers to the review of Relative Accuracy Test Audit (RATA) reports. A Minor Non Compliance should be entered if the applicable RATA criteria are not met.

MRR Miscellaneous Report Review

This activity code refers to the review of reports that do not fall under any other activity code. Depending on the miscellaneous report, MRR activity can be used under the Tests and Reports or CEMS compliance assurance category.

CEMS Inspection Activities*:*

All the CEMS evaluation activities will fall under the compliance assurance category of CEMS.

CML1 CEMS LEVEL 1 Evaluation

A CEMS LEVEL 1 Evaluation consists of an on-site inspection, records review, and observation of daily calibration. The records review consists of a review of the emissions data, the quality assurance manual, and the maintenance log.

CML2 CEMS LEVEL 2 Evaluation

A CEMS LEVEL 2 Evaluation consists of an on-site inspection, records review, and quality assurance test observation. The quality assurance test observation may include observation of a linearity check or a relative accuracy test audit (RATA).

CML3 CEMS LEVEL 3 Evaluation

A CEMS LEVEL 3 Evaluation consists of an on-site inspection, records review, and CEMS evaluations (cylinder gas audit, flow monitor audit, or continuous opacity monitor audit) conducted by the agency.

a) If the applicable performance specifications are met by the CEMS, the emission unit is In Compliance.

b) If the applicable performance specifications are not met by the CEMS, the emission unit is Minor out of Compliance.

Note: Emission units that do not use CEMS as a Method of Compliance, should not result in an "Out of Compliance" based on CEMS activities until the Credible Evidence Rule is finalized.

Optional CEMS Category Activities:

<u>Code Description</u>

CALL: Telephone Call
Use this activity for phone calls made concerning CEMS (optional).

CMTG: Compliance Meeting
Use this activity for meetings concerning CEMS (optional).

COMPLAINTS

A complaint is any communication received by the Department or its approved County Programs that indicates a problem with the air resources. A complaint may or may not allege noncompliance by a regulated industry or person. It is the Department's position that all complaints are investigated and resolved if possible.

Complaints received are addressed in the Complaint Module of ARMS. Complaints entered may either be generated from outside the Department or from within the Department. Examples of complaints that should be entered in the database are:

- Complaints received against permitted facilities;
- Normally unpermitted sites; and
- If DEP receives information that a facility is operating and/or constructing without a permit.

Complaint Addressing Activities*:*

<u>Code</u> <u>Description</u>

CI Complaint Inspection
This activity code refers to an inspection of a regulated facility for which a complaint was received or which is suspected of being the cause of a complaint.

CPLI Complaint Investigation
This activity code refers to an investigation of a complaint that was received and for which no regulated facility is suspected of being the cause of the complaint.

CI Complaint Inspection
This activity code refers to an inspection of a regulated facility for which a complaint was received or which is suspected of being the cause of a complaint.

CPLI Complaint Investigation
This activity code refers to an investigation of a complaint that was received and for which no regulated facility is suspected of being the cause of the complaint.

Optional Complaint Activities:

CALL Telephone Call
This activity code refers to a phone call that staff personnel wish to track.

CMTG Compliance Meeting
This activity code refers to a meeting held to discuss compliance topics.

P2PP Pollution Prevention Project Plan
This activity code refers to the compilation and review of a Pollution Prevention Project Plan prior to an inspection. It is not a measuring activity because compliance status cannot be altered by a determination in the file.

Complaint Resolution

The results of the complaint addressing activities can be either in compliance, minor out of compliance, or significant out of compliance. In the case that a complaint inspection or investigation reveals that no violation occurred, an in compliance result is entered.

If DEP is the complainant against a facility for operating and/or constructing without a permit and the facility does not exist in the Department's database at the time the information is received, then a complaint should be created and a violation opened to track the resolution.

Violation Resolution

Activities that indicate a compliance status of either minor out of compliance or significant out of compliance must go through *Violation Resolution*. The main function of this resolution process is to track the key stages of the violation that bring the facility back in compliance. Violations are resolved through three main avenues. The first is the resolution of a minor violation by using compliance without enforcement. The second way used for the majority of significant violations is the consent order process. The third way to resolve significant violations are by referral to the Office of General Counsel for further negotiations or court action.

Violation Resolution Activities*:*

Code Description

ACOE Amended Consent Order Executed
This activity code refers to the amending of the formal enforcement contract between the respondent and the Department.

AOR Annual Operating Report Review
Use this activity for AOR review.

CALL Telephone Conversation
This activity code refers to a phone call that staff personnel wish to track.

CAPR Corrective Action Plan Review
This activity code refers to the review of any Corrective Action Plan.

CCDL Case Closed by District/Local
This activity code refers to the final resolution of an enforcement case. When all penalties have been paid and all necessary actions taken to come back into compliance , this activity code is entered and the facility's compliance status is automatically changed to in compliance.

CGA Calibration Gas Audit Report Review
This activity code refers to the review of any Cylinder Gas Audit (CGA) report. A Minor Non Compliance should be entered if the applicable linearity (CGA) criteria are not met.

CHCS Change Compliance Status
This activity code refers to a change in the original violation status from minor to significant or vice versa. Each use of CHCS must be fully

explained and documented.

CML1 CEMS Level 1 Evaluation
A CEMS LEVEL 1 Evaluation consists of an on-site inspection, records review, and observation of daily calibration. The records review consists of a review of the emissions data,_the quality assurance manual, and the maintenance log.

CML2 CEMS Level 2 Evaluation
A CEMS LEVEL 2 Evaluation consists of an on-site inspection, records review, and quality assurance test observation. The quality assurance test observation may include observation of a linearity check or a relative accuracy test audit (RATA).

CML3 CEMS LEVEL 3 Evaluation
A CEMS LEVEL 3 Evaluation consists of an on-site inspection, records review, and CEMS evaluations (cylinder gas audit, flow monitor audit, or continuous opacity monitor audit) conducted by the agency.

CMSR Continuous Monitor System Report Review
This activity code refers to the review of Continuous Monitor System Reports. The review of quarterly reports of emissions monitored by CEMS is a CMSR activity. The amount of excess emissions and CEMS downtime should be entered into ARMS.

For sources that do not use CEMS as Method of Compliance:

a) If excess emissions and/or CEMS downtime is < 2%, the emission unit is In Compliance.

b) If excess emissions and/or CEMS downtime is >= 2% and <= 5% for two consecutive quarters or > 5% for one quarter, the emission unit is Minor Out of Compliance.

c) If excess emissions and/or CEMS downtime is > 5% and <= 10% for two consecutive quarters or > 10% for one quarter, the emission unit is Significant Out of Compliance.

For sources that use CEMS as a Method of Compliance:

a) Minor Non Compliance is not applicable to excess emissions. If excess emissions are >0% (other than start up, shut down, calibration tests, etc. as specified in the rule), the emission unit is Significant Out of Compliance.

COE Consent Order Executed
This activity code refers to the formal enforcement contract between the respondent and the Department to resolve violations. In this document the violations are discussed, the

corrective actions are outlined, a penalty amount may be assessed, form of penalty payments outlined, and due dates of actions necessary to satisfy compliance are included. An executed consent order determines the formal enforcement pathway and resolves a violation

CPAM Civil Penalty Authorization Memo
This activity code refers to the memo used to obtain approval civil penalties in excess of $25,000 or for penalties against other governmental entities.

CRC Case Referral Sent to Counsel
This activity code refers to the referral of a formal enforcement case to the Office of General Counsel. As the case is out of our hands, the EPA Timely & Appropriate guidance recognizes it as resolved and the Timely & Appropriate clock is stopped.

CRCA Case Resolved Through Civil Action
This activity code refers to the final resolution of an enforcement case through a civil action in Court. When all penalties have been paid and all necessary actions taken to come back into compliance, this activity code is entered and the facility's compliance status is automatically changed back to in compliance.

CRCO Case Referred for Civil Action was Resolved Through Consent Order Executed
This activity code refers to the final resolution of an enforcement case through a Consent Order after it had been referred to the Office of General Counsel for civil action in Court.

CWOE Compliance Without Formal Enforcement
This activity code refers to the final resolution of an enforcement case through informal enforcement. This can be done for minor violations but not for violations that are deemed significant. Furthermore each use of CWOE must be fully explained and documented.

EMT Enforcement meeting
This activity code refers to a meeting held to discuss enforcement topics and is usually preceded by a Warning Letter.

EPAS EPA significant non-compliance removed from violation, criteria were not met.
This activity code refers to the final resolution of a significant violator enforcement case through informal enforcement. This can be done for violations that were subsequently found to be minor but not for violations that are still deemed significant after further review. Furthermore each use of EPAS must be fully explained and documented.

FAR Fuel Analysis Report

This activity code refers to a review of fuel analysis reports to determine compliance with the permitted fuel type and content.

FR File Review
This activity code refers to the review of compliance files received from the regulated community. It is a measuring activity because compliance status can be altered by a determination in the file.

FUI Follow up Inspection
This activity code refers to an inspection that is conducted as a response to a previous inspection that indicated a compliance problem at the site.

IKPA In-Kind Project Proposal Approved
This activity code refers to the approval of an in kind penalty or supplemental environmental project in addition to or in lieu of cash in the formal enforcement contract between the respondent and the Department.

MCOE Model Consent Order Executed
This activity code refers to the use of the model consent order format in the formal enforcement contract between the respondent and the Department to resolve violations. In the document the violations are discussed, the corrective actions are outlined, a penalty amount may be assessed, form of penalty payments outlined, and due dates of actions necessary to satisfy compliance. An executed consent order determines the formal enforcement pathway and resolves a violation

MRR MISCELLANEOUS REPORT REVIEW
This activity code refers to the review of miscellaneous reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding in the report.

NCLI Non-Compliance letter Issued
This activity code refers to the initial and final step in an informal enforcement case. These letters are documented in order to determine patterns of repeat violations.

P2PP Pollution Prevention Project Plan
This activity code refers to the use of pollution prevention in formal enforcement cases. The P2 project should be implemented on the schedule established.

PI Permit Inspection
This activity code refers to an inspection that is conducted on site during normal business hours. The inspector reviews the facility's construction status and verifies that the construction is as permitted.

RAA Relative Accuracy Audit Report
This activity code refers to the review of Relative Accuracy Audit (RAA) reports. RAAs conducted pursuant to 40 CFR 60, Appendix F, must meet

the criteria of Appendix F, including the criteria in Section 5.2.3, Excessive Audit Inaccuracy, unless other criteria are specified in the applicable subpart. If the criteria are not met, a Minor Non Compliance entry should be made. In the case of 40 CFR 75, a Minor Non Compliance should be entered if the applicable RA criteria are not met.

RATA Relative Accuracy Test Audit Report Review
This activity code refers to the review of Relative Accuracy Test Audit (RATA) reports. A Minor Non Compliance should be entered if the applicable RATA criteria are not met.

RSCC Resolution in Small Claims Court
This activity code refers to the final resolution of an enforcement case through the use of the Small Claims Court system by a District or Local Program Office and without the assistance of the Department's Office of General Counsel.

SADU Self Audit Corrections Due Date
This activity code refers to the use of the Department's Self Audit Guidance to obtain compliance. For those facilities opting into the Self Audit Program, missing the correction due dates could result in violations and become reason to expel them from the program.

SCOE Short Form Consent Order Executed
This activity code refers to the formal enforcement contract between the respondent and the Department to resolve violations A simplified version of the Consent Order, the Short Form Consent Order usually mentions the violations by referring to the warning letter which was issued. Most often corrective actions have been completed, or are few in number at the time of the short form consent order execution. The penalty amount and penalty type is given and all due dates of actions necessary to bring the facility back in compliance are addressed.

SOCR Statement of Compliance Report Review
This activity code refers to the review of miscellaneous reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding in the report.

STR Stack Test Report Review
This activity code refers to the review of stack test reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding of noncompliance in the report.

VER VE Test Report Review

This activity code refers to the review of visible emission test reports received from the regulated community. It is a measuring activity because compliance status can be altered by a finding of noncompliance in the report.

VR Violation Removed - no violation occurred

This activity code refers to the final resolution of an enforcement case through informal enforcement. This code is used when a violation should not have been entered. Furthermore each use of VR must be fully explained and documented.

WLI Warning Letter Issued

This activity code refers to the initial step in a formal enforcement case. The date of the issuance of the Warning Letter is tracked with the EPA and is a milestone in the EPA's Timely & Appropriate Guidance.

Secretary's Quarterly Performance Report
Division of Air Resources Management

The following information shows the type of data that is used in the Secretary's Quarterly Performance Report. The data must be up-to-date for each quarterly report by the 10th of the month following the designated quarter. The reports are generated for July-September, October-December, January-March, and April-June but represent twelve months of data ending in the quarter being reported.

Tier I

DATA SOURCES AND METHODOLOGY

Annual Operation Reports (AOR): Major, synthetic minor, and other stationary sources of air pollutant emissions are required to report their annual emissions for these pollutants.

Tier II

COMPLIANCE RATES

Compliance rates for Title V facilities are generated for the Air Compliance Categories of Inspections, Tests and Reports, and Annual Operating Reports. A composite compliance rate is also a calculated based on these areas and Asbestos compliance. The rates are derived as follows:

Physical Inspections: The most recent inspection result for each emission unit in a specified twelve month period is used to set the compliance status for the emission unit. If all emission units are in compliance then the facility is in compliance. If any emissions unit is significant out of compliance, the facility is out of compliance. The compliance rate is equal to the number of facilities that are in compliance divided by the number of facilities that are inspected during the twelve month period.

Tests and Reports: The most recent test result per pollutant/VE in each emissions unit in the specified twelve month period is used to set the compliance status for that emissions unit. If the test result for any pollutant/VE is FAIL, the emissions unit is significant out of compliance. Otherwise, the emissions unit is in compliance. The compliance status is then bubbled up to the facility level in the same manner as for inspections. The compliance rate is equal to the number of facilities that are in compliance divided by the number of facilities that are tested during the twelve month period.

Annual Operating Report: Since the Annual Operating Report is submitted by March for the previous year, the compliance rate is based on the previous year. For a particular year of AOR, if the AOR showed emissions exceedance for any pollutant for an emissions unit, that emissions unit is significant out of compliance. Otherwise, the emissions unit is in compliance. The compliance status is bubbled up to the facility in the same manner as inspections. The compliance rate is equal to the number of facilities that are in compliance divided by the number of facilities required to submit AOR.

Composite Compliance Rate: If a facility is in compliance for all three categories listed above, the facility is in compliance. The compliance rate is equal to the number of facilities that are in compliance divided by the total number of facilities that are included in calculating the composite compliance status.

Tier III - Compliance

INSPECTIONS

The total number of inspections conducted at permitted facilities is reported by counting the total number of inspection activities (activity types of INSP, STO, VEO, CI) in the specified twelve month period for each compliance office.

Complaint Inspections account for the reported number of unpermitted inspections that take place during the specified twelve month period for each compliance office.

The return to compliance is determined as follows:

Total number of Title V facilities: The number of Title V facilities that are active or under construction as of the date the data is pulled from ARMS excluding AREA facilities.

Total number of Title V facilities in significant non-compliance: The number of facilities with a composite status of out of compliance calculated in Tier II.

Total number of non-Title V facilities: The number of non-Title V facilities that are active or under construction as of the date the data is pulled from ARMS excluding AREA facilities.

Total number of non-Title V facilities in significant non-compliance: The number of facilities with a composite status of out of compliance calculated as for Title V facilities in Tier II.

Tier IV - General

Total facilities using Self Audit policy = 0.

EPA Reporting Requirements

DATA REPORTED TO EPA*:*

Compliance Data:
Facility, Inspections

Enforcement Data:
EPA Significant Non Compliance
Day '0', Air Program, Pollutant
Violation Resolving Activity/Penalty Amount Assessed
Case Closed by District/Local

The EPA requires all the above data.

The data must be entered by the 10th of the month following the most recent month for upload to the EPA by the 15th of the month.

Report Specifications

In order for compliance activities to be monitored for accuracy and results, reports can be generated based on data entered in the Compliance Assurance Module of the Air Resources Management System (ARMS).

These reports will generate a list of records in need of attention due to a scheduled date, missing data entry or errors in data entry. The reports can be generated at any time based on statewide data and grouped by office. Current report categories include:

Open Violations - will include all records where violations have been created, but no resolving activity has been entered in the database.

Violation Penalty - will include all records with a penalty assessed, but no dollar amount entered. (IN WORK - NOT YET AVAILABLE)

Missing Detail - will include all records (except CEM activities) that have been entered but not associated with any inventory detail. For example, a pollutant test activity was entered, but no test results were entered on the associated ARMS inventory forms. (IN WORK - NOT YET AVAILABLE)

Edit Check - will include all records containing contradicting information between the compliance status and the test result data on the ARMS inventory forms. (IN WORK - NOT YET AVAILABLE)

Compliance Test Report - will include all tests scheduled in an office or for a specific facility during a specified date range. (IN WORK - NOT YET AVAILABLE)

Activities - will include all activities scheduled or done during a date range in a specific category or all categories.

Complaints - will include all complaints entered in the Compliance Assurance module and list any activities associated with the record.

Secretary’s Quarterly Performance Report - will allow users to automatically generate a report representing the data that will appear on the Secretary’s Quarterly Performance Report. (IN WORK - NOT YET AVAILABLE)

Glossary

Activity: Actions taken to determine the procedural, monitoring or emissions compliance of a facility, investigate a complaint, or resolve a violation. These actions are activities, expressed as a code based on the activity description. For example, INS2 is the activity code describing a compliance inspection level 2 activity.

Additional Initiating Activity: An Additional Initiating Activity identifies a violation as already opened by an existing Initiating Activity. For example, if an inspection determined an exceedance of the annual emissions limit, a violation is opened. The Initiating Activity would be the inspection activity. Later, the same violation was reported on the Annual Operating Report. The inspection is the Initiating Activity, and the Annual Operating Report is the Additional Initiating Activity. The Additional Initiating Activity does not open another violation, but is linked to the violation already opened by the Initiating Activity.

Closed Violation: A closed violation indicates that all orders or compliance plan conditions have been met, the penalty has been paid* (*or determined uncollectable), and the District or Local Office considers the case to be closed.

Complaint Activity: Actions performed by an office to determine whether a complaint is valid.

Compliance Activity: Actions routinely performed by an office to determine whether a facility is in or out of compliance such as inspections or report reviews.

Compliance Assurance Category: A regulated air facility in the State of Florida may be in or out of compliance based on areas of information. These areas are: INSPECTIONS, TESTS AND REPORTS, AOR, and CEMS. The four areas are referred to as compliance assurance categories. A facility's compliance status can be determined through each category or a composite of all categories that apply to the facility.

Compliance Result: The outcome of an activity that can change the compliance status of a facility. For example, an inspection occurs and as a result of the inspection a non-compliance status of minor out of compliance is identified.

Compliance Status: The state of being in or out of accord with rules or Department requests at a facility or emission unit. Out of compliance may be considered as Significant Non Compliance (SNC) or Minor Non Compliance (MNC). The worst case compliance status at any of the facility's emission units will "*bubble up*" to become the compliance status of its facility level Compliance Assurance Category. Once at this level, if any of the Compliance Assurance Categories shows out of compliance, the facility is out of compliance.

Compliance Rate: The measure of compliance with air regulations determined by dividing the number of facilities that are in compliance during a time by the total number of facilities in that compliance category during that same period.

Emissions Unit Object: When the activity is directed at a specific emission unit requirement, the activity should have the Object of emission unit. For example, when a compliance or complaint inspection activity finds an emission unit(s) in compliance with all of its requirements, emission unit will be selected as the activity Object.

Facility Wide Object: If an activity applies to compliance with the entire facility requirements, it is considered to be a Facility Wide Object. For example, Area sources with no emission units will always have Facility Wide Activities. A Point source may have a Facility Wide Activity when the activity is related to a facility level requirement. Examples of Point facility wide are: 1) and inspection of a Title V facility found an emission unit operating without a permit. The inspection Activity is entered with an Object of Facility Wide, because the permit is a facility level requirement. 2) A facility wide production limit exists at a facility. The production limit applies too more than one Emission Unit and/or is a facility wide requirement, so the Activity has an Object of Facility Wide.

Initiating Activity: An Initiating Activity has a non-compliance result and is the activity that may open a violation.

Object: The emission unit(s) and/or facility affected by the activity performed. These emission unit(s) and/or facilities are associated with activities through ARMS.

Open Violation: When non compliance is determined and is undergoing resolution it is considered an open violation. It may or may not be back in compliance. However, it has not been resolved or closed.

Resolution Activity: Actions performed by an office once a violation has been opened which determine one or more of the following: 1) a facility is back in compliance; 2) the violation has been resolved; and 3) the violation is closed.

Resolution Follow Up Activity: Actions performed by an office to determine that the facility is complying with terms of a consent order, notice of violation, court order, or compliance plan milestone. Resolution Follow Up Activities consists of the normal compliance Activities: Stack Test Report Review, Visible Emission Test Report Review, Continuous Monitor System Report Review, Statement of Compliance Report Review, etc. In addition, Follow Up Inspection, File Review and Miscellaneous Report Reviews are available.

Resolved Violation: A resolved violation implies that the violation has been closed and is either: 1) resolved through formal enforcement or informal enforcement; or 2) determined not to have occurred. Resolved through formal enforcement would indicate that a consent order was executed, the case was referred to Counsel for resolution, or a Notice of Violation was issued. Resolved through informal enforcement would indicated that the facility has agreed to correct or corrected the violation, and compliance without formal enforcement has begun or is completed and no compliance milestones were necessary.

Violation: The action that occurs based on non compliance with any of the Compliance Assurance Categories that may apply to a facility.

EPA/FLORIDA PERFORMANCE PARTNERSHIP AGREEMENT
AIR WORKGROUP - WORKPLAN

Introduction

The air workgoup met several times during the five month period that this work effort was underway. Participants were from the EPA Region 4, the DEP Division of Air Resources Management and Central District, Duval County and Hillsborough County.
The fundamental objectives of the air workgroup was to develop a way to measure compliance, to compare results at the state and national level and to look at ways to reduce reports and paperwork and develop environmental indicators. These efforts led to redefining compliance workplan strategies so that the state would now have a bottom-up plan as opposed to a top-down driven plan.

This plan alone was reason enough to establish the performance partnership. However, it became clear that the data in the EPA data systems tended to have coding problems that did not allow state data to be properly accounted for in the national reports. Certain paper reports were also determined to be unnecessary, since the information was accounted for in other areas. The exercise was worth our efforts, but was difficult to coordinate since so many people were involved at different locations.

Workgroup Members

Air workgroup members were:
Howard L. Rhodes, Director, DEP Division of Air Resources Management
Beverly Spagg, Branch Chief, EPA Region 4 Air and EPCRA Enforcement
Vivian Garfein, Director, DEP Central District
Reginald Barrino, Air Technical Authority , EPA Region 4 Environmental Accountability Division
Jim Manning, Director, Duval County Air Quality Division
Kay Strother, Air Enforcement Coordinator, Hillsborough County Environmental Protection Commission
Len Kozlov, Air Program Administrator, DEP Central District
Dick DuBose, Chief, EPA Region 4 Air Enforcement Section
Jim Pennington, Compliance Assurance Administrator, DEP Division of Air Resources Management

COMPLIANCE ASSURANCE: Compliance Assurance is all activities conducted by the Department or its approved local programs in verifying the compliance status of the regulated community and includes but is not limited to inspections, stack test witnessing, report review and enforcement, as well as appropriate compliance assistance activities which include technical assistance and education.

Compliance Assurance

Issue: To provide flexibility in targeting major stationary source inspections.

Action Item: Develop an annual Compliance Assurance Plan with focus upon industry sectors, geographic initiatives, sources with high risk to human health or ecosystems multimedia impacts, noncompliers and categories of small sources which have large cumulative impacts.

Discussion: In the development of this annual plan, emphasis should be placed upon federally promulgated programs and standards, such as sources subject to the MACT standards. This plan will replace the existing protocol which is aimed at inspecting one hundred per cent (100%) of the major stationary sources and provide Florida the flexibility to prioritize its compliance and enforcement resources.

The state and its approved local programs would have the latitude to develop a bifurcated approach towards choosing inspections. In other words, for those sources or source categories which are routinely well in compliance year after year, there may not be the need to inspect on an annual basis, and they could be selected for compliance inspections once every 2 or 3 years, depending upon the circumstances. These sources would be selected on a random basis. Targeted inspections are those that are conducted when an inspector has information suggesting the likelihood that a violation exists at the site before an inspection is conducted. A random inspection is one that is conducted, for whatever purpose, in which we have no prior knowledge that a violation does exist or likely exists at the time of the inspection. For those sources which are more likely to be displaying noncompliance problems or a marginal compliance status, they would be selected for inspections at least once per year and in some cases more frequently. This approach would also allow the programs to focus their inspection resources on those sources which are more likely to have compliance problems and to calculate compliance rates in different ways.

On an annual basis the state and its approved local programs would identify the specific sources to be inspected and decide which category would apply to each of them (that is, whether a source is being selected for inspections on at least an annual basis or on a less frequent basis).

This Compliance Assurance Plan will be integrated into the 105 grant workplans and Title V program requirements and will be subject to EPA review and approval. Latitude to incorporate special initiative efforts based upon EPA regional or Headquarters guidance will be maintained. The election of continuing to inspect 100% of all major sources by the state and/or local programs remains optional.

Lead: Joint agency preparation by EPA, Florida DEP, and Local Programs. To be accomplished by simultaneous submittal as part of the 1998 Air Workplan.

SIGNIFICANT VIOLATOR - NON-SUBSTANTIAL PROCEDURAL VIOLATIONS - IDENTIFICATION/REPORTING

Issue: To define what categories of substantial procedural requirements are federally reportable.

Action Item: Re-examine existing guidance to determine flexibility in identifying or categorizing “substantial procedural” violations. Develop a comprehensive list of all possible procedural violations that are not “substantial procedural” requirements and will not require reporting to EPA.

Discussion: Based upon a preliminary review of the traditional types of procedural violations that have been reported to EPA to identify significant violators, an initial list of non-substantial (insignificant) procedural violations have been developed. When these types of insignificant procedural violations are documented independent of other existing significant violations, they would not result in a source being classified as a significant violator. Therefore, in this particular type of situation the violation would not have to be reported to EPA, and EPA would not be monitoring the state’s adherence to the EPA’s Timely and Appropriate guidance in addressing these violations.

The state and its approved local programs maintain the option to enforce against non-substantial procedural violations. If, however, the source has a significant violation elsewhere, the source must be designated as a significant violator in AFS.

Non-substantial Procedural Violations identified by the workgroup:

Reporting	Submission of required data five (5) days or less late that demonstrates compliance.
Annual Operating Report	Submission of AOR thirty (30) days or less late that demonstrates compliance.
Recordkeeping	Recordkeeping in line with requirements but not enough details; compliance status can be determined and source is in compliance.
Testing	Failure to conduct required test within five (5) days after due date.
Initial NSPS/PSD Test Requirement Upon Reaching Full Production	Failure to meet the initial sixty (60) day test window for good reason such as inadequate design, seasonal production, or malfunction.
Initial NSPS/PSD Test Requirement After Start-Up	Failure to meet the initial one hundred and eighty (180) day test window for good reason such as inadequate design, seasonal production, or malfunction.
Production Rate Exceedances Based On Annual Standard and Monthly Process Rates, Applies To Title V Sources Only	Exceedance of monthly process rate by less than five percent (5%), but annual standard maintained, and the only exceedance is in one (1) month of a consecutive twelve (12) month period, where process rate is used to determine compliance and adequate proof is available that actual emissions were less than allowables.
40CFR60.7 Notifications	Submission of required data late five (5) days or less that demonstrates compliance.
Asbestos NESHAP	First-time demolition, no notice submitted and no asbestos containing material present prior to the demolition.

Lead: Preparation by EPA, Florida DEP and Local Programs

Reporting

Issue: Hard (paper) copy reporting.

Action Item: Re-evaluate and modify where appropriate EPA policies requiring transmittal copies of all notices of violations, consent orders, inspection reports, etc. EPA will develop a comprehensive list of the correspondence needed at an absolute minimum. The state will provide EPA with documentation other than that which is identified on the comprehensive list on a as-needed or as-requested-basis by EPA.

Discussion: In order to properly evaluate the extent of the need for paper copy reporting and the latitude that may exist in reducing this reporting burden, the total set of compliance and enforcement reporting requirements must be reviewed. The hard copy reporting element can not be evaluated in an isolated manner since other reporting mechanisms are also being utilized and serve necessary functions.

For example, the reporting that occurs through the monthly conference calls and the routine updating of AFS with timely and complete data must be taken into consideration in trying to determine to what extent hard copy reporting could be reduced. If there are gaps in the updating of AFS or if the monthly conference calls do not adequately provide EPA with the opportunity to keep abreast of ongoing compliance and enforcement activities within the state, the hard copies become more crucial.

If AFS is being kept up to date and the conference calls serve to adequately provide EPA with a broad base of information, then it will be possible to move towards reducing the hard copy reporting to only some form of state action that occurs on the front end and back end of a compliance/enforcement action.

For example, perhaps only copies of the Notice of Violation/Warning Letter and the final compliance order would suffice. All of this would be subject to renegotiation each year based upon the success of this new approach.

Lead: Preparation by EPA

Environmental Indicators

Issue: To utilize performance/impact-based measures to evaluate overall program performance.

Action Item: Develop quantifiable performance/impact measures other than enforcement actions and penalties to evaluate program performance such as ecosystem indicators, program indicators, compliance assistance successes, reduction in pollutants, emissions or toxic substances.

Discussion: In order to measure the success of the compliance and enforcement program, long term and interim environmental indicators have been developed and are identified in this section. These measures would be applied to both the traditional programs (e.g., major sources, NSPS sources, PSD sources, etc.), and to the nontraditional programs (e.g., dry cleaners). The databases that will be utilized to evaluate these measures of success will be maintained by Florida DEP.

Environmental Indicators identified by the workgroup:

Long Term Environmental Indicators

1. Current ambient monitoring data for overall air quality trends. This data is available and is currently being reported to the EPA electronically.

2. Trending results based on Annual Operating Reports from major sources and population growth (per capita basis). This data is being developed and will be submitted on an annual basis commencing in FY 1998.

Interim Environmental Indicators

1. Compliance Rates for Stationary Sources - Both the EPA and the DEP will make every effort to develop a compliance rate for major stationary sources within six (6) months from the date of this workplan initiation.

    a. The compliance rates for major stationary source inspections will be determined by dividing the number of major stationary sources found in compliance by inspection by the number of major stationary sources inspected. This will be calculated quarterly using both AIRS/AFS and ARMS data. Each system should be capable of developing comparable results.

b. The compliance rates for emission unit inspections will be determined by dividing the number of emission units found to be in compliance by inspection by the number of stationary source units inspected. This will be calculated quarterly using ARMS data.

c. The compliance rates for major stationary source stack tests will be determined by dividing the number of major stationary sources found to be in compliance by stack test by the total number of stack tests conducted. This will be calculated quarterly using both AIRS/AFS and ARMS data. Each system should be capable of developing comparable results

d. The compliance rates for emission unit stack tests will be determined by dividing the number of emission units found to be in compliance by stack test by the total number of units tested. This will be calculated quarterly using ARMS data.

e. The compliance rates for sources in a particular nontraditional program category found to be in compliance by inspection will be determined by dividing the number of sources in a particular nontraditional program category found to be in compliance by inspection by the number of nontraditional sources in that category that are inspected. This will be calculated quarterly using the appropriate database when developed.

f. The compliance rate of emission units by Annual Operating Reports (AORs) will be determined by dividing the number of emission units in compliance as reported by the AORs by the total number of emission units reported on in AORs. This will be calculated annually using ARMS data.

NOTE: For the compliance rates calculated in accordance with items 1.a., 1.b., 1.c., 1.d., and 1.e above, a compliance rate will be calculated for the random universe of stationary sources, the targeted universe of stationary sources and the combined universe of both populations.

2. Compliance Rates for Asbestos NESHAP Renovation/Demolition Projects

   a. The compliance rate for asbestos NESHAP renovation/demolition projects will be determined by dividing the number of asbestos NESHAP renovation/demolition projects found to be in compliance by inspection by the total number of projects inspected. This will be calculated quarterly using APIS/NARS data. Each system should be capable of developing comparable results

3. Reduction of atmospheric pollution loadings through the implementation of voluntary pollution prevention programs, such as the Partnership for Ecosystem Protection (PEP) or as a result of implementing the MACT standards. Data will be updated on an as available basis.

4. Quality Assurance
   The quality assurance techniques that could be employed in order to assure the quality of the data include, but are not limited to the following:

   a. The Division of Air Resources Management's Compliance Assurance Section will conduct quality assurance inspections in the district and local program jurisdictions to verify the quality of the inspections conducted and compliance determinations made by these entities.

   b. EPA will utilize EPA staff field inspections, the possible use of contractor inspections, and determinations of statistically significant sample size techniques to assure quality of data reported.

<u>Lead</u>: Preparation by EPA, Florida DEP, and Local Programs