2009 State Summary Data for
Clean Air Act – Violations and Deviations
FISCAL YEAR 2009 FINAL REPORT

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Overview

This report on Clean Air Act (CAA) regulated sources provides summary data on source universe for major sources and non-major sources as well as incidences of non-compliance identified by and deviations from air emission permit requirements reported to the United States Environmental Protection Agency (EPA), states, tribes and delegated local agencies. Non-major sources are synthetic minor sources, federally-reportable minor sources and sources that have an unknown classification. A major source has actual or potential emissions above at least one of the applicable major source thresholds, which are: 100 tons per year for any air pollutant other than greenhouse gases; 10 tons per year for any single hazardous air pollutant (HAP), or 25 tons per year for any combination of HAPs; or 10 to 250 tons per year for criteria air pollutants, depending on the area's air quality attainment status. Synthetic minor sources would be major but have enforceable permit limits to restrict their emissions below major source thresholds. Minor sources, also known as area sources, are facilities that physically cannot emit at or above major source thresholds. The time frame of this report is the 2009 federal fiscal year (FY09), which extends from October 1, 2008, to September 30, 2009. The data provided in this report are from EPA's Air Facility System (AFS). AFS is the national database of record for CAA compliance and enforcement data for stationary sources regulated by EPA, state, tribal and local air pollution agencies. The data was pulled from AFS in March 2010.

Agencies tasked with implementing CAA regulations report data to AFS on a regular basis. EPA uses the data to manage the national compliance monitoring and enforcement program; to facilitate dialogue with the states, tribes and local agencies; and to evaluate compliance monitoring and enforcement programs. EPA requires a minimum amount of data be reported to AFS on a regular basis. The data does not represent all of the CAA related activities conducted by a state, tribal or local agency. Individuals should visit agency Web sites for additional information.

EPA does not require reporting of most minor source universe data and related activity data, with some exceptions (see Summary of Data Entry Requirements). However, some agencies voluntarily report on minor source activity; others enter partial or very limited amounts of data. Comparisons across states relating to these facilities are not recommended.

Facility-specific information can be reviewed at the Enforcement and Compliance History Online (ECHO) Web site. ECHO allows users to find permit, compliance evaluation, violation, enforcement action and penalty information. The site includes facilities regulated as CAA stationary sources, Clean Water Act direct dischargers and Resource Conservation and Recovery Act hazardous waste generators/handlers. ECHO integrates information about facilities from separate media-specific data systems. It allows the public to monitor environmental compliance in communities, corporations to monitor compliance across facilities

they own and investors to more easily factor environmental performance into their decisions. The data in ECHO are updated monthly.

Background on CAA Program

The CAA grants authority to EPA to regulate air pollution from stationary sources, such as chemical plants, utilities and steel mills, and mobile sources; require controls for air pollution; issue permits; control acid deposition and protect stratospheric ozone. EPA delegates much of their CAA authority to state and tribal agencies. In 1990, Congress revised and expanded the CAA, providing EPA even broader authority to implement and enforce regulations to reduce air pollutant emissions.

EPA, state, tribal and local agencies work collaboratively to evaluate compliance with CAA regulations, which are developed to implement the requirements of the CAA. Many tools are used to make compliance determinations, including, but not limited to, on-site evaluations, review of emission reports, review of compliance certifications, information requests and investigations. EPA also promotes compliance incentives and auditing to encourage facilities to find and disclose violations. Violations may also be identified from tips/complaints received from the public. Violations identified as a result of any of these activities may lead to civil enforcement or criminal enforcement. EPA also provides compliance assistance to the regulated community to help them understand their requirements and to minimize or prevent violations from occurring.

On a cyclical basis, EPA negotiates a CAA Compliance Monitoring Strategy (CMS) with delegated agencies. The goals of the CMS are to:

1) Provide national consistency in developing compliance monitoring programs, while providing state and local governments with flexibility to address local air pollution and compliance concerns;
2) Improve communication between state and local governments and EPA Regions;
3) Provide a framework for developing compliance monitoring programs that focuses on achieving measurable environmental results; and
4) Provide a mechanism for recognizing and utilizing the wide range of tools available for evaluating and determining compliance.

The CMS defines three categories of compliance monitoring: 1) Full Compliance Evaluations (FCE), 2) Partial Compliance Evaluations (PCE) and 3) investigations. An FCE is a comprehensive evaluation of the compliance status of a facility. All regulated pollutants from all regulated emission points are addressed. A PCE is a documented compliance assessment focusing on a subset of regulated pollutants, regulatory requirements or emission units at a facility. An investigation is generally limited to a portion of a facility, is more resource intensive and involves a more in-depth assessment of a particular issue. Biennially, states provide EPA a CMS plan that includes a list of facilities and the type of compliance monitoring planned at those facilities during the period covered by the plan.

To manage the CAA national stationary source compliance monitoring and enforcement program and oversee state, tribal and local CMS plans, EPA requires delegated agencies provide source universe information and activity data regarding a defined federally-reportable

universe of sources. The activity data includes, but is not limited to, compliance evaluations, compliance determinations and enforcement activities. The federally-reportable universe of facilities is major sources, synthetic minor sources, sources that are part of a CMS plan, sources with an active High Priority Violation[1] (HPV), minor sources subject to a National Emission Standard for Hazardous Air Pollutants (40 C.F.R. § 61 only) and sources subject to a formal enforcement action. Some exceptions apply to the two latter categories. The data are referred to as Minimum Data Requirements (MDRs) and EPA uses this data to assess progress toward meeting requirements developed under the authority of the CAA to protect and maintain the atmospheric environment and the public health.

In representing the minimum amount of data necessary to manage the national program, the MDRs are critical in prioritizing programs and conducting national evaluations. In addition, the information provided enables EPA to respond in a timely manner to requests for information with accurate, nationally defined and reported data. The MDRs are listed in an Information Collection Request that is issued every three years. The ICR is published in the Federal Registrar for review and comment, and affects oversight of over 40,000 stationary sources. It includes a 60 day timeliness standard but encourages a monthly reporting schedule.

Definitions for Report Columns

State

Two character state abbreviation. The totals include data provided by both delegated state and local agencies.

Active Major Facilities Universe

The metric counts active CAA major facilities. Active facilities are those characterized as operating, temporarily closed or seasonally operating. These facilities meet the definition of a major source under the 1990 CAA Amendments. A major source has actual or potential emissions above at least one of the applicable major source thresholds, which are:

- 100 tons per year for any air pollutant other than greenhouse gases;
- 10 tons per year for any single hazardous air pollutant (HAP), or 25 tons per year for any combination of HAPs; and
- 10 to 250 tons per year for criteria air pollutants, depending on the area's air quality attainment status.

Active Non-Major Universe

The metric covers active CAA non-major facilities. Active facilities are those characterized as operating, temporarily closed or seasonally operating. Non-major facilities are synthetic minor sources, minor sources and sources with unknown classification. Synthetic minor sources would be major but have enforceable permit limits to restrict their emissions below major

[1] An HPV is defined by the December 22, 1998 *Policy on Timely and Appropriate Enforcement Response to High Priority Violations* policy – referred to as the HPV policy.

source thresholds. Minor sources, also known as area sources, are facilities that physically cannot emit at or above major source thresholds. The sources with unknown classification are likely those that the states report voluntarily.

State and local agencies are only required to report on a subset of these non-major sources (i.e., federally-reportable universe). However, some states use AFS for all of their stationary source related data entry.

Facilities with New High Priority Violations (HPVs) Identified 2009

The metric counts the number of facilities with *new* HPVs identified or entered in AFS during the fiscal year. The HPV policy encourages agencies to give priority attention to those violations that they believe are most environmentally important based on established criteria. The policy applies mostly to major sources. In AFS, an HPV is identified by a Day Zero. A Day Zero indicates the date on which a violation is determined to be an HPV by EPA or a state, tribal or local agency. Generally, the Day Zero should occur within 45 days of the initial identification of the violation. Examples of violations at major sources that are HPVs include violation of an air toxic requirement[2] and failure to obtain a Prevention of Significant Deterioration[3] (PSD) permit. Violations at non-major sources that are HPVs are violations of an emission limit that affects the source's status as non-major. Included in the table below are HPVs with a Day Zero achieved during the fiscal year and HPVs that were entered in AFS during the fiscal year. The goal is to make sure all HPVs newly entered in AFS are included. When a facility has more than one new HPV in the fiscal year, only one is counted.

Facilities with Non-compliance in 2009

The metric counts the number of active facilities with any incidence of non-compliance or HPV entered in AFS by the EPA or state, tribal or local agency during the fiscal year. The non-compliance may have been identified in a previous fiscal year but continues in FY09. It does not include facilities that are meeting a compliance schedule (i.e., operating under an enforcement action). Because the count is facility level, when a facility has more than one non-compliance event in the fiscal year, only one is counted.

Non-compliance is an indication that a violation of a federally enforceable environmental requirement set forth by the CAA and its regulations was identified by an authorized entity. When the violation is identified at a facility that is part of the federally-reportable universe, the violation is a federally-reportable violation[4] (FRV). A violation may indicate that the facility released excessive pollutants, or that a facility failed to submit a required report. HPVs are a subset of FRVs. These determinations assist the government in tracking resolution of violations through the enforcement process and do not necessarily represent a final adjudication by a judicial or administrative body. In such cases, these characterizations should be

[2] National Emission Standards for Hazardous Air Pollutants, http://www.epa.gov/oecaerth/monitoring/programs/caa/neshaps.html
[3] http://www.epa.gov/nsr/psd.html
[4] An FRV is clarified by the March 22, 2010 *Clarification Regarding Federally-Reportable Violations for Clean Air Act Stationary Sources* – referred to as the FRV memo.

considered alleged violations.

Stack Tests in 2009: Conducted and Failures

A stack test, also referred to in EPA regulations as a performance or source test, measures the amount of a specific regulated pollutant, pollutants, or surrogates being emitted; demonstrates the capture efficiency of a capture system; or determines the destruction or removal efficiency of a control device used to reduce emissions at facilities subject to the requirements of the CAA. Stack testing is an important tool used to determine a facility's compliance with emission limits, or capture or control efficiencies established pursuant to the CAA.

The date a stack test is completed is documented in AFS with a compliance determination (i.e., updating of compliance status). A compliance determination is based on the results of the test, which are reported as either pass or fail. If the results of a stack test are not known when reporting the stack test, a pending results code is used. However, the "pending" results code is considered to be a temporary value and is to be replaced with a pass or fail results code within 120 days of the date of the stack test.

The federally-reportable universe of facilities is major sources, synthetic minor sources, sources that are part of a CMS plan, sources with an active HPV, minor sources subject to a National Emission Standard for Hazardous Air Pollutants (40 C.F.R. § 61 only) and sources subject to a formal enforcement action.

Facilities with Self-Reported Violations/Deviations

Title V of the 1990 Clean Air Amendments (1990 CAAA) introduces requirements for operating permits[5]. Title V is an "umbrella" program covering all major stationary sources subject to any provision of the CAA. These permits must specify all of the applicable requirements for that facility. At a minimum, the permits must contain enforceable emission limitations and standards, a schedule for achieving compliance within the required time frame, and provisions for reporting compliance related data at least every six months. On an annual basis sources must certify their compliance status.

The table below counts the number of annual compliance certifications received and reviewed by the state, tribal, or local permitting authority. It also includes the number of certifications that included a report of a deviation. Sources are required to report any deviation from a permit requirement or standard. Deviations are not automatically considered violations and must be evaluated on a case-by-case basis to determine if a violation occurred.

[5] http://www.epa.gov/oar/oaqps/permits/basic.html

CAA Violations and Deviations[5] Identified in 2009 - Counts by State

All data combine activities and violations reported by States, Local agencies and EPA.

State	Active[1] Major Facilities Universe	Active Non-major[2] Universe	HPV's identified in 2009		Non-Compliance[3] Identified in 2009		Stack Tests in 2009: Conducted and Failures[4]				Facilities with Self-Reported Deviations[5] Based on Title V Annual Compliance Certifications (Majors Only)	
			Majors	Non-majors	Majors	Non-majors	Majors Tested	Majors with Failed Tests	Non-majors Tested	Non-majors with Failed Tests	ACCs Received / Reviewed	Deviations Reported[5]
AK	147	267	0	0	1	0	13	0	6	0	118	2
AL	367	1,171	22	3	32	10	117	6	27	0	324	84
AR	208	930	10	1	24	23	26	5	30	1	205	0
AZ	139	262	5	6	5	6	33	0	27	0	121	13
CA	1,155	1,061	314	24	315	24	325	24	34	3	940	75
CO	283	15,644	23	7	28	9	51	7	54	6	150	0
CT	82	2,560	5	6	7	17	29	1	32	0	74	23
DC	35	497	8	0	8	0	2	0	0	0	31	0
DE	61	221	4	0	6	0	19	2	5	0	61	0
FL	405	4,078	36	2	37	2	162	17	117	3	364	0
GA	404	3,294	24	6	33	23	120	8	82	3	390	0
GU	16	14	0	0	0	0	0	0	0	0	0	0
HI	136	30	14	0	14	0	38	0	0	0	129	0
IA	279	4,234	12	0	38	27	55	12	30	7	242	118
ID	58	770	3	0	3	0	12	2	17	0	48	22
IL	502	7,462	39	37	39	39	55	4	41	8	393	68
IN	645	778	24	5	27	5	80	2	41	2	608	194
KS	299	3,958	3	0	6	17	42	1	30	2	271	73
KY	292	2,298	11	3	22	49	17	2	3	0	239	0
LA	520	7,962	31	4	32	5	9	2	5	0	0	0
MA	143	4,346	8	5	8	8	43	1	22	3	130	68
MD	129	11,083	10	1	22	33	26	3	14	0	126	57
ME	68	831	0	3	3	5	19	3	16	3	65	0
MI	458	2,873	10	8	42	25	68	7	14	4	242	112
MN	302	1,750	30	11	59	103	67	7	15	3	264	55
MO	316	4,339	7	1	9	1	21	1	29	1	238	86
MP	4	7	0	1	0	1	0	0	0	0	0	0
MS	287	624	10	8	12	20	49	2	25	1	237	0
MT	72	1,689	3	3	4	4	41	0	39	1	68	17
NC	348	2,815	25	1	57	168	63	0	66	1	328	0
ND	69	266	0	0	0	0	8	1	2	0	56	0
NE	116	3,501	4	5	4	6	16	2	18	4	94	0
NH	44	874	3	6	4	6	15	0	11	2	43	0
NJ	322	4,275	25	1	25	1	65	25	25	10	261	128
NM	165	3,626	16	2	28	29	17	1	17	1	143	37
NV	57	75	3	1	3	1	21	1	3	0	46	0
NY	457	9,009	22	15	42	150	35	3	8	0	393	0
OH	721	5,145	53	21	60	26	116	18	78	18	537	293
OK	317	2,697	33	18	86	97	39	2	138	3	281	70
OR	135	192	5	0	14	0	16	1	0	0	135	6
PA	637	6,552	67	4	130	175	182	9	96	7	575	1
PR	47	548	3	1	6	10	1	0	3	2	18	0
RI	41	452	6	1	7	1	2	0	0	0	36	19
SC	278	1,745	14	11	25	33	66	7	42	5	271	159
SD	86	118	3	1	3	1	6	1	11	0	71	0
TN	307	2,041	29	13	29	15	44	4	32	1	263	44
TX	1,424	3,409	197	15	197	15	172	14	15	0	1,109	0
UT	127	1,256	5	0	5	4	34	0	27	0	67	25
VA	269	6,285	16	1	20	44	39	2	37	10	248	0
VI	10	98	0	0	1	0	1	0	0	0	5	4
VT	19	220	1	0	1	2	2	0	5	2	18	8
WA	128	479	17	1	17	2	60	5	16	2	108	52
WI	491	2,459	30	7	48	30	61	8	20	5	33	5
WV	177	881	6	1	14	5	24	2	6	0	160	0
WY	191	1,185	5	1	5	1	2	1	0	0	114	0
National	**14,795**	**145,236**	**1,254**	**272**	**1,667**	**1,278**	**2,646**	**226**	**1,431**	**124**	**11,491**	**1,918**

Notes	The data used in this report reflects a static data set that was pulled in March 2010. The information may differ from the live or production data pulled from ECHO or other sources that have been updated since March 2010. The static data set is used by the State Review Framework (SRF). SRF is used to consistently assess EPA and state/local enforcement of the Clean Air Act and its regulations. SRF reports allow EPA to identify recommendations for improvement to ensure fair and consistent enforcement and compliance programs across the states.
Footnotes:	
1	Active in this report indicates facility is either operating, temporarily closed, seasonally operated or, for columns on activity counts, had one of this activities conducted in FY2009.
2	Non-major universe is a plain language term for the universe of facilities which are not major. The universe of non-majors includes sources classified as synthetic minor, minor or unknown; and sources identified as federally-reportable. Sources voluntarily reported by state and local agencies are likely those with unknown classifications. The universe does not include all minor sources. For a description of federally-reportable minor sources see the CAA Minimum Data Requirements at http://cfpub.epa.gov/compliance/resources/publications/data/air/policies/. This column includes data not required to reported; therefore, no conclusions should be drawn from the data.
3	Non-compliance is an indication that a violation was identified. Non-compliance determinations assist the government in tracking resolution of violations and should be considered alleged violations. Facilities with non-compliance identified refers to those facilities that had an alleged violation identified during the fiscal year. Violations at all non-majors arenot required to be reported. This column includes data not required to be reported; therefore, no conclusions should be drawn from the data.
4	Stack Tests are performance emissions tests conducted to determine compliance of the source against a permit or regulatory control standard for a CAA regulated pollutant. A failure is an indication of an emissoin exceedance. See the National Stack test Guidance at http://www.epa.gov/compliance/resources/policies/monitoring/caa/stacktesting.pdf
5	Title V Operating Permits require sources to submit Annual Compliance Certifications that include: (1) A certification of continuous or intermittent compliance, and (2) if any deviations from permit requirements or standards occurred. Deviations are not automatically considered violations and must be evaluated on a case-by-case basis to determine if a violation occurred.