



**DEBRA K. DAVENPORT, CPA**  
AUDITOR GENERAL

**STATE OF ARIZONA**  
OFFICE OF THE  
**AUDITOR GENERAL**

**MELANIE M. CHESNEY**  
DEPUTY AUDITOR GENERAL

June 10, 2016

The Honorable John Allen, Chair  
Joint Legislative Audit Committee

The Honorable Judy Burges, Vice Chair  
Joint Legislative Audit Committee

Dear Representative Allen and Senator Burges:

Our Office has recently completed a 36-month followup of the *Department of Environmental Quality—Compliance Management* regarding the implementation status of the 12 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in March 2013 (Auditor General Report No. 13-01). As the attached grid indicates:

- 5 have been implemented;
- 2 have been partially implemented; and
- 5 are in the process of being implemented.

Our Office will conduct a 42-month followup with the Department on the status of those recommendations that have not yet been fully implemented.

Sincerely,

Dale Chapman, Director  
Performance Audit Division

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Attachment

cc: Misael Cabrera, Director  
Department of Environmental Quality

# Department of Environmental Quality—Compliance Management Auditor General Report No. 13-01 36-Month Follow-Up Report

## Recommendation

## Status/Additional Explanation

### Finding 1: Department can more effectively target inspections to protect public health and the environment

1.1 The Department should request that the EPA collaborate with it to develop a framework for implementing a risk-based inspections approach to ensure that such an approach meets the terms of its EPA agreements. The framework may vary by environmental program.

**Implemented at 36 months**

1.2 For environmental programs where the Department and the EPA have developed a framework for implementing a risk-based inspections approach, and for those programs where there is no EPA oversight, the Department should:

a. Develop standard criteria for assessing individual facility risk, and average risk by facility type and environmental program;

#### **Implementation in process**

The Department's three divisions have developed risk-assessment tools for assessing the risk of individual facilities in their respective environmental programs. However, according to the Department, it is still in the process of developing standard criteria for all divisions to use to assess average risk by facility type and environmental program. The Department reported that, in November 2015, it created an Office of Continuous Improvement (OCI) that has been assigned to complete this criteria's development. However, as of May 2016, the Department indicated that the OCI had not yet prioritized its workload and projects. As a result, the Department could not provide an estimated date for completing implementation of this recommendation.

b. Increase the inspection frequency of facilities identified as higher risk and decrease the inspection frequency of facilities identified as lower risk; and

#### **Partially implemented at 36 months**

As of May 2016, the Department has not fully implemented this recommendation, and it does not have an estimated date for doing so. Specifically, as reported in the prior followup, the Department's Waste Programs Division and Water Quality Division took several steps to implement this recommendation. However, according to the Department, staff turnover and a state-wide hiring freeze have negatively impacted the staffing resources in all of its divisions, and it can no longer ensure this recommendation's full implementation. For example, the Department reported that its Water Quality Division can no longer consistently increase the inspection frequency of higher-risk facilities.

In addition, as a result of the staffing issues, the Department reported that it had difficulty collecting suffi-

## Recommendation

## Status/Additional Explanation

- c. Develop and implement policies and procedures for assessing the effectiveness of the risk-based inspections approach, including developing and implementing performance measures, establishing baselines, tracking facility compliance performance against the measures over time, and modifying the risk-based inspections approach as needed.

cient data to demonstrate implementation of this recommendation. For example, the Air Quality Division and Waste Programs Division have not yet provided documentation that they have decreased the inspection frequency of any facilities, and the Department could not provide an estimated date for doing so.

### **Implementation in process**

According to the Department, it uses two department-wide performance measures—facilities in compliance at the time of inspection and return to compliance time frame—to assess the effectiveness of its risk-based inspections approach. Additionally, it reported that it further assesses its approach by measuring the overall compliance rate of its regulated facilities based on self-monitoring data that facilities provide to the Department. However, the Department has not yet developed any policies, procedures, or other written guidance to support its assessment approach. The Department reported that it has assigned the development of this written guidance to the OCI (see explanation for Recommendation 1.2a for more information on the OCI). However, as of May 2016, the Department indicated that the OCI had not yet prioritized its workload and projects. As a result, the Department could not provide an estimated date for completing implementation of this recommendation.

1.3 In order to enhance its implementation of a risk-based inspections approach, the Department should:

- a. Conduct a small number of random inspections of facilities that have had inspection frequencies reduced or eliminated to continue to provide deterrence and monitor for possible violations among these facilities;

### **Partially implemented at 36 months**

As reported in the prior followup, the Department's Water Quality Division conducted random inspections on facilities not originally on its annual inspections list for one of its largest EPA-delegated environmental programs. However, according to the Department, staff turnover and a state-wide hiring freeze have negatively impacted the staffing resources in all of its divisions and it can no longer ensure full implementation of this recommendation. In addition, as a result of these staffing issues, the Department reported that it had difficulty collecting sufficient data to demonstrate implementation of this recommendation. For example, as of May 2016, the Department had not provided any documentation that the Water Quality Division had conducted random inspections in other environmental programs, or that the Air Quality Division and Waste Programs Division had conducted random inspections, and it did not provide an estimated date for doing so.

**Recommendation****Status/Additional Explanation**

- b. Use all available facility self-monitoring data to help assess the facilities' violations history;

**Implementation in process**

The Department has developed a work group to analyze the root cause of noncompliance within its various environmental programs and to develop program-specific compliance assistance strategies (see explanation for Recommendation 2.2). As part of this project, the Department reported that it will review how it can use all available facility self-monitoring data to help assess facilities' violations history and to identify facilities that may need compliance assistance. However, the Department reported that it has assigned the development of uniform policies and procedures for using self-monitoring data to assess facilities' violations history and providing compliance assistance to the OCI (see explanation for Recommendation 1.2a for more information on the OCI). As of May 2016, the Department indicated that the OCI had not yet prioritized its workload and projects. As a result, the Department could not provide an estimated date for completing implementation of this recommendation.

- c. Continue its efforts to fix or replace the Wastewater Compliance and Enforcement Tracking System database to ensure accurate violations reports based on self-monitoring data in the wastewater programs; and

**Implemented at 36 months**

- d. Develop standardized data reports from its compliance and enforcement data to assist department staff in assessing risk as well as measuring the impact of its inspections and enforcement activities.

**Implemented at 36 months**

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**Finding 2: Department does not consistently take timely and effective enforcement actions**

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- 2.1 The Department should continue to assess and expand the use of field-issued enforcement for programs that do not require a detailed review of violations in order to issue enforcement actions in a timely manner. In addition, the Department should update its policies and procedures to ensure the process is effectively implemented.

**Implemented at 12 months**

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## Recommendation

## Status/Additional Explanation

2.2 The Department should develop and implement a corrective action plan that addresses the main barriers to providing effective assistance to noncompliant facilities, including reduced staff resources, and identifies the types of assistance it can provide to better assist noncompliant facilities return to compliance.

### Implementation in process

The Department has developed a work group to analyze the root cause of noncompliance within its various environmental programs and to develop program-specific compliance assistance strategies. However, the Department reported that it has assigned the development of a corrective action plan to the OCI (see explanation for Recommendation 1.2a for more information on the OCI). As of May 2016, the Department indicated that the OCI had not yet prioritized its workload and projects. As a result, the Department could not provide an estimated date for completing implementation of this recommendation.

2.3 The Department should identify the root cause of violations for the small water systems, consult with other states that face similar issues to determine how they are addressing noncompliance and if it is working, and develop an effective plan to address the noncompliance.

### Implementation in process

As reported in the prior followup, the Department had taken several steps to address this recommendation. These included identifying the lack of funding as the root cause of most small water system violations, surveying other states' drinking water administrators to determine how they are addressing noncompliance, and convening a multiagency team to develop strategies for achieving and maintaining small water system compliance. Department staff stated that the team identified several initiatives to address small water system noncompliance, including initiating and formalizing frequent communication and cooperation between the Department and the Rural Water Association of Arizona, county boards that oversee domestic water improvement districts, the Arizona Corporation Commission, and the Water Infrastructure Finance Authority.

The Department reported that it has not yet developed a written plan to address small water system noncompliance, and it could not provide an estimated date for doing so because of a lack of staff resources. However, legislation enacted during the 2016 legislative session provided funding that may help to address small water system noncompliance. Specifically, Laws 2016, Ch. 117, §150, appropriated \$500,000 to the Department's small water systems fund (fund) to provide emergency grants to small water systems in fiscal year 2017. The Water Infrastructure Finance Authority administers the fund, which provide emergency grants to interim operators and managers of small water systems to repair or replace water infrastructure. The Department reported that the grants may help small water systems address or avoid violations related to infrastructure and water quality testing. The legislation requires the Arizona Corporation Commission and the Water Infrastructure Finance Authority to jointly report the total amount of expenditures from the fund for emergency grants to interim operators of small water systems during fiscal year 2017 to the director of the Joint Legislative Budget Committee by August 1, 2017.

**Recommendation****Status/Additional Explanation**

2.4 The Department should make a determination on how best to handle escalation in Arizona and align its policies and procedures with that strategy. Further, the Department should then consistently adhere to its policies and procedures for escalated enforcement to help return facilities to compliance in a timely fashion and help ensure that public health and the environment are protected.

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**Implemented at 36 months**