



## **2009 State Summary Data for Clean Air Act Majors FISCAL YEAR 2009 FINAL REPORT**

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Office of Enforcement and Compliance Assurance  
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<http://www.epa.gov/compliance/data/results/performance/caa.html>

US Environmental Protection Agency  
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Clean Air Act Majors

FISCAL YEAR 2009 FINAL REPORT (June 17, 2010)

**Overview**

This report on [Clean Air Act \(CAA\)](#) major sources provides summary data on source universe as well as the compliance monitoring activities and enforcement actions by the United States Environmental Protection Agency (EPA), states, tribal and delegated local agencies. 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. 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.

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, 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 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 major source universe information and activity data that includes, but is not limited to, compliance evaluations, compliance determinations and enforcement activities. 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.

### **Universe of Facilities Covered: CAA Major Facility**

This report covers CAA major sources for the period October 1, 2008, to September 30, 2009. These facilities meet the definition of a major source under the 1990 CAA Amendments.

As of March 2010, there were 14,795 major sources reported in AFS.

### **Definitions for Report Columns**

#### **State**

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

#### **2009 Active Major Facilities Universe**

The metric counts active major facilities in AFS. Active facilities are those characterized as operating, temporarily closed or seasonally operating. It serves as a measure of the degree to which the MDR requirements are complete.

#### **Major Facilities with Full Compliance Evaluations**

The metric counts all major facilities that received an FCE during FY09. Agencies completed and reported an FCE at the number of facilities provided on the table. In accordance with the CMS, EPA recommends that a Title V major sources receive, at a minimum, an FCE once every two federal fiscal years and those major sources identified as “mega-sites” receive an FCE at least once every three federal fiscal years. A mega-site is identified by states based on size and complexity of operations. Additionally, state and local agencies may develop alternatives to the recommended evaluation frequencies with EPA approval. This metric serves as a measure of the degree to which states and EPA completed planned compliance evaluations.

#### **Percent of Major Facilities with Full Compliance Evaluation in 2009**

The metric indicates the ratio of all major facilities that received an FCE during FY09 to the total number of major facilities.

#### **Major Facilities with Partial Compliance Evaluations**

The metric counts all major facilities that received a PCE during FY09. Agencies completed and reported a PCE at the number of facilities provided in the table. PCEs are not considered an MDR. Thus, delegated agencies are not required to report PCEs unless they were conducted as part of a negotiated CMS plan. Some states elect to report all compliance monitoring activities, including all PCEs.

## **Facilities with Non-compliance "Identified" in 2009**

The metric counts the number of active major facilities with any incidence of *new* non-compliance identified or a High Priority Violation<sup>1</sup> (HPV) entered in AFS by the EPA or state, tribal or local agency during the fiscal year. It does not include facilities that are meeting a compliance schedule (i.e., operating under an enforcement action). When a facility has more than one new 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. These are referred to as federally-reportable violations<sup>2</sup> (FRVs). 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 considered alleged violations.

## **Facilities with Non-compliance in 2009**

The metric counts the number of active major 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). When a facility has more than one non-compliance event in the fiscal year, only one is counted.

## **Major Facilities with New High Priority Violations (HPVs) Identified 2009**

The metric counts the number of major 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. 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 that are HPVs include violation of an air toxic requirement<sup>3</sup> and failure to obtain a Prevention of Significant Deterioration<sup>4</sup> (PSD) permit. Included in the table below are HPVs with a Day Zero 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.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> National Emission Standards for Hazardous Air Pollutants,  
<http://www.epa.gov/oecaerth/monitoring/programs/caa/neshaps.html>

<sup>4</sup> <http://www.epa.gov/nsr/psd.html>

### **High Priority Violation Identification Rate**

The metric compares the number of major facilities with new HPVs identified or entered in AFS during the fiscal year to the total number of major sources. This metric is an indicator of HPV policy implementation.

### **Number of Major Facilities with Informal Enforcement Actions Issued in 2009**

The metric counts the total number of major facilities that received an informal enforcement action during the fiscal year. Informal enforcement actions serve as a warning letter or a notice of violation. Such notification indicates that the enforcement agency believes that the facility is in violation of the CAA and that it should return to compliance or be prepared to defend its actions in subsequent enforcement. These alleged violations do not represent a final, legal determination that a violation has occurred. Informal actions often precede a formal enforcement action (e.g., administrative or judicial enforcement action). In some cases, these actions facilitate corrective action and the source returns to compliance without a formal enforcement action. Each facility with an informal enforcement action is counted only once, even if there are multiple informal actions for that facility during a fiscal year.

### **Number of Major Facilities with Formal Enforcement Actions Issued in 2009**

The metric counts the total number of major facilities that received a formal enforcement action during the fiscal year. Formal enforcement actions are either administrative or judicial, and typically require a specified course of action that returns a facility to compliance and may include a penalty. Administrative actions are taken by the EPA or a state under its own authority (e.g., Administrative Orders). Civil actions are formal lawsuits, filed in court (e.g., Consent Decrees). Each facility with a formal action is counted only once, even if there are multiple formal enforcement actions for that facility during a given fiscal year.

### **Total Assessed Penalties – 2009**

The metric counts the total value of assessed penalties at major sources that received a formal enforcement action in the fiscal year. The penalty assessed must be linked to the formal enforcement action. Penalties linked in AFS to informal actions or referrals are not included in the total. The same penalty entered on two related formal enforcement actions that address the same violation may be counted twice.

### **Number of HPV Addressing Actions in 2009**

The metric counts the total number of formal enforcement actions issued to a major source during the fiscal year that addressed an HPV. For the violation identified as an HPV, addressed means the source has entered into a legally-enforceable, administrative or judicial order; or the source is the subject of a referral to a state attorney general or the Department of Justice. The HPV may have been identified in a previous fiscal year. A single HPV could be addressed by more than one formal enforcement action. The metric can be used in coordination with the number of new HPVs identified to evaluate an agency's ability to address HPVs.

## **Number of HPVs Unaddressed for Greater than 270 Days at the End of 2009**

The HPV policy establishes a timeliness standard of 270 days for addressing an HPV from the date of the HPV identification or Day Zero. The metric counts the total number of HPVs at major sources that have gone unaddressed for greater than 270 days at the end of the fiscal year. The HPV may have been identified in a previous fiscal year. The metric can be used as an indicator of the timeliness of addressing actions.

FY2009 CAA Majors Report - Compilation of Evaluations, Compliance Determinations and Enforcement Reported to EPA Databases for CAA Major Sources<sup>1</sup>

State <sup>(1)</sup>	2009 Active <sup>(2)</sup> Major Facilities Universe	Major Facilities with Full Compliance Evaluations <sup>(3)</sup>			Percent of Major Facilities with Full Compliance Evaluations in 2009	Major Facilities with Partial Compliance Evaluations <sup>(4)</sup>			Facilities with Non-compliance <sup>(5)</sup> "Identified" in 2009	Facilities with Non-compliance <sup>(6)</sup> in 2009	Major Facilities with New High Priority Violations (HPVs) Identified 2009			High Priority Violation Identification Rate	Major Facilities with Informal Enforcement Actions Issued in 2009			Major Facilities with Formal Enforcement Actions Issued in 2009			Total Assessed <sup>(6)</sup> Penalties 2009			# of HPV Addressing Actions in 2009		# of HPVs Unaddressed > 270 Days at End of 2009 <sup>(7)</sup>	
		Total	State	EPA		Total	State	EPA			Total	Total	State		EPA	Total	Total	State	EPA	Total	State	EPA	Total	State	EPA		Total
AK	147	53	1	54	36%	84	6	84	1	12	0	0	0	n/a	2	0	2	3	0	3	\$48,000	\$0	\$48,000	0	0	0	1
AL	367	361	1	361	95%	360	8	362	32	58	22	0	22	6%	31	0	31	17	17	32	\$247,250	\$0	\$247,250	14	0	2	2
AR	208	204	0	204	95%	0	2	2	24	56	10	0	10	5%	16	0	16	32	0	32	\$196,255	\$0	\$196,255	32	0	0	0
AZ	139	60	2	62	44%	49	3	52	5	13	5	0	5	4%	3	0	3	6	1	7	\$50,437	\$950,000	\$1,000,437	6	0	0	0
CA	1,155	901	12	906	77%	848	18	850	315	369	306	13	314	27%	177	3	180	242	5	246	\$3,560,362	\$2,000,000	\$5,560,362	490	4	36	0
CO	283	137	28	166	58%	4	2	6	28	62	23	0	23	8%	5	0	5	24	1	25	\$679,986	\$5,000	\$684,986	25	0	10	10
CT	82	41	0	41	50%	1	34	34	7	27	4	1	5	6%	10	0	10	1	3	4	\$2,600	\$456,742	\$459,342	0	1	6	6
DC	35	12	1	13	37%	8	1	9	8	14	8	0	8	23%	6	0	6	5	0	5	\$118,000	\$0	\$118,000	4	0	0	0
DE	61	33	0	33	54%	59	1	59	6	24	3	1	4	6%	5	0	5	3	1	4	\$115,324	\$600,000	\$715,324	0	1	7	7
FL	405	302	1	303	73%	393	0	393	37	50	36	1	36	9%	23	0	23	26	0	26	\$917,829	\$0	\$917,829	30	0	11	11
GA	404	344	1	344	84%	346	4	347	33	87	24	0	24	6%	26	0	26	18	0	18	\$432,648	\$0	\$432,648	23	0	4	4
GU	16	0	0	0	n/a	0	0	0	0	1	0	0	0	n/a	0	0	0	0	0	0	\$0	\$0	\$0	0	0	0	0
HI	136	116	0	116	85%	4	0	4	14	23	14	0	14	10%	9	0	9	10	0	10	\$970,800	\$0	\$970,800	9	0	0	0
IA	279	150	14	160	56%	257	4	257	38	73	12	0	12	4%	84	1	85	9	1	10	\$40,600	\$167,600	\$208,200	8	1	1	1
ID	58	23	4	27	45%	24	1	24	3	13	3	1	3	5%	6	1	7	8	0	8	\$234,090	\$0	\$234,090	2	0	0	0
IL	502	276	0	276	54%	49	28	67	39	142	32	8	39	8%	26	1	27	0	5	5	\$0	\$1,600,000	\$1,600,000	0	1	35	35
IN	645	364	1	365	54%	63	22	79	27	140	16	8	24	4%	16	2	18	31	9	39	\$342,865	\$801,183	\$1,144,048	27	3	17	17
KS	299	249	7	250	83%	14	3	16	6	39	3	0	3	1%	17	1	18	17	1	18	\$299,750	\$600,651	\$900,401	10	0	2	2
KY	292	187	1	188	64%	0	3	3	22	61	11	0	11	4%	39	0	39	12	0	12	\$310,500	\$0	\$310,500	6	0	12	12
LA	520	186	4	188	36%	8	16	20	32	92	27	4	31	6%	5	0	5	27	1	28	\$87,167	\$0	\$87,167	14	0	11	11
MA	143	62	0	62	43%	146	44	148	8	21	7	1	8	6%	14	1	14	11	2	13	\$94,970	\$0	\$94,970	6	1	2	2
MD	129	71	2	71	53%	135	3	135	22	34	9	1	10	8%	24	0	24	5	0	5	\$310,800	\$0	\$310,800	2	0	1	1
ME	68	48	2	50	74%	60	28	62	3	14	0	0	0	n/a	5	1	6	1	1	2	\$173,000	\$200,000	\$373,000	1	0	0	0
MI	458	223	0	223	49%	227	11	232	42	129	4	6	10	2%	24	9	33	7	8	15	\$454,220	\$710,000	\$1,164,220	6	2	16	16
MN	302	125	2	127	42%	2	8	9	59	89	26	6	30	10%	33	3	35	30	8	35	\$460,539	\$0	\$460,539	27	9	7	7
MO	316	231	12	234	72%	3	1	4	9	20	6	1	7	2%	13	1	14	4	0	4	\$104,000	\$0	\$104,000	3	0	0	0
MP	4	0	0	0	n/a	0	0	0	0	1	0	0	0	n/a	0	0	0	0	0	0	\$0	\$0	\$0	0	0	0	0
MS	287	141	1	141	49%	14	5	19	12	21	10	0	10	3%	17	0	17	7	0	7	\$95,000	\$0	\$95,000	7	0	1	1
MT	72	38	4	42	58%	64	0	65	4	9	3	0	3	4%	12	1	13	4	0	4	\$0	\$0	\$0	6	0	0	0
NC	348	361	0	361	98%	46	1	46	57	85	25	0	25	7%	70	0	70	24	0	24	\$104,876	\$0	\$104,876	28	0	1	1
ND	69	39	0	39	57%	0	4	4	0	5	0	0	0	n/a	0	0	0	0	0	0	\$0	\$0	\$0	0	0	0	0
NE	116	66	4	66	55%	3	2	5	4	14	3	1	4	3%	10	2	12	3	0	3	\$190,619	\$0	\$190,619	0	0	0	0
NH	44	18	2	18	41%	16	6	19	4	8	3	0	3	7%	6	0	6	1	1	2	\$23,175	\$0	\$23,175	1	0	1	1
NJ	322	164	7	167	51%	7	35	40	25	95	25	0	25	8%	72	2	73	106	0	106	\$4,004,583	\$0	\$4,004,583	29	0	3	3
NM	165	83	4	84	51%	7	1	8	28	35	14	2	16	10%	20	0	20	17	0	17	\$214,664	\$0	\$214,664	9	0	1	1
NV	57	35	1	35	61%	18	2	19	3	12	2	1	3	5%	0	0	0	2	1	3	\$7,750	\$0	\$7,750	2	1	0	0
NY	457	304	5	305	66%	412	26	415	42	218	22	0	22	5%	49	1	50	30	0	30	\$664,310	\$0	\$664,310	23	0	6	6
OH	721	336	0	336	46%	331	53	355	60	230	35	19	53	7%	71	6	76	11	10	21	\$947,350	\$1,278,334	\$2,225,684	6	3	47	47
OK	317	175	0	175	54%	187	5	187	86	143	32	2	33	10%	18	1	19	26	0	26	\$615,901	\$0	\$615,901	23	0	22	22
OR	135	58	0	58	43%	16	0	16	14	26	5	1	5	4%	7	0	7	5	0	5	\$17,950	\$0	\$17,950	3	0	0	0
PA	637	542	8	543	84%	489	15	493	130	227	63	8	67	11%	104	5	107	90	0	90	\$3,076,951	\$0	\$3,076,951	88	0	20	20
PR	47	27	1	28	55%	14	7	20	6	40	3	0	3	6%	4	0	4	3	0	3	\$15,000	\$0	\$15,000	0	0	1	1
RI	41	16	3	19	45%	38	16	40	7	20	5	1	6	14%	11	0	11	4	2	6	\$6,500	\$0	\$6,500	3	1	2	2
SC	278	194	1	194	69%	214	2	215	25	42	14	0	14	5%	37	0	37	12	1	13	\$177,147	\$0	\$177,147	7	0	4	4
SD	86	76	1	76	87%	0	0	0	3	6	2	1	3	3%	0	1	1	0	0	0	\$0	\$0	\$0	0	0	0	0
TN	307	238	0	238	75%	109	2	110	29	66	29	0	29	9%	28	0	28	25	0	25	\$802,800	\$0	\$802,800	34	0	3	3
TX	1,424	201	3	204	14%	1,056	39	1,061	197	423	186	13	197	14%	150	1	151	155	3	158	\$9,410,881	\$11,000	\$9,421,881	246	2	54	54
UT	127	81	5	86	68%	9	6	15	5	23	3	2	5	4%	0	1	1	5	1	6	\$157,000	\$987,757	\$1,144,757	5	0	6	6
VA	269	153	1	154	57%	269	2	269	20	47	12	4	16	6%	16	3	19	13	0	13	\$188,664	\$0	\$188,664	14	0	1	1
VI	10	5	1	6	60%	1	2	2	1	10	0	0	0	n/a	0	0	0	0	0	0	\$0	\$0	\$0	0	0	0	0
VT	19	10	0	10	53%	0	3	3	1	2	1	0	1	5%	1	0	1	0	0	0	\$0	\$0	\$0	0	0	0	0
WA	128	93	2	95	73%	80	4	80	17	28	16	2	17	13%	37	1	37	30	0	30	\$772,526	\$0	\$772,526	9	0	3	3
WI	491	234	0	234	48%	2	22	24	48	115	22	11	30	6%	26	6	30	6	5	11	\$589,053	\$25,000	\$614,053	0	2	22	22
WV	177	95	0	95	52%	21	6	25	14	47	5	1	6	3%	6	0	6	4	1	5	\$77,000	\$750,000	\$827,000	2	0	1	1
WY	191	86	2	88	45%	8	0	8	5	16	5	0	5	3%	8	0	8	7	0	7	\$179,975	\$0	\$179,975	0	0	1	1
National	14,795	8,628	152	8,721	58%	6,575	517	6,821	1,667	3,677	1,156	121	1,254	8%	1,399	55	1,445	1,139	89	1,221	\$32,591,667	\$11,143,267	\$43,734,934	1,290	32	386	386

Notes: Totals for facilities with compliance evaluations and actions/events may not be additive because EPA and states can take an activity against the same facility. Generally, EPA counts will include activities conducted at facilities on Tribal lands.

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:

- The counts include activities entered in AFS by federal, state and local agencies.
- Active in this report indicates a facility is either operating, temporarily closed, seasonally operated or, for columns indicating an activity count, an active facility was the subject of that activity during the fiscal year.
- An FCE addresses all regulated pollutants from all regulated emission points at a facility.
- A PCE is a documented compliance assessment focusing on a subset of regulated pollutants, regulatory requirements or emission units at a facility. PCEs are not required to be reported; therefore, the data may not be complete and no conclusions should be drawn from the data.
- 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 illegal violations. Facilities with non-compliance identified refers to those facilities that had an alleged violation identified during the fiscal year.
- An assessed penalty is the amount of any