



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Implementing Environmental Programs

Conditions in the U.S. Virgin Islands Warrant EPA Withdrawing Approval and Taking Over Management of Some Environmental Programs and Improving Oversight of Others

Report No. 15-P-0137

April 17, 2015



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Abbreviations

CAA	Clean Air Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
DOI	U.S. Department of the Interior
DPNR	Department of Planning and Natural Resources
EPA	U.S. Environmental Protection Agency
EPAAct 2005	Energy Policy Act of 2005
EPCRA	Emergency Planning and Community Right-to-Know Act
FY	Fiscal Year
LEPC	Local Emergency Planning Committee
LUST	Leaking Underground Storage Tank
OIG	Office of Inspector General
PM ₁₀	Inhalable coarse particulate matter
PM _{2.5}	Fine particulate matter
RMP	Risk Management Program
SDWA	Safe Drinking Water Act
TPDES	Territorial Pollutant Discharge Elimination System
UST	Underground Storage Tank
USVI	U.S. Virgin Islands

Cover photo: Left: Bird's-eye view of Hurricane Hole in Virgin Islands' Coral Reef National Monument, showing protected bays and coastlines fringed by mangroves; top right: Hawksbill Sea Turtle; bottom right: boulder brain coral. (U.S. Geological Survey, Department of the Interior photos)

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At a Glance

Why We Did This Review

We conducted this review to determine whether the environmental programs the U.S. Virgin Islands (USVI) has implemented on the U.S. Environmental Protection Agency's (EPA's) behalf have met EPA programmatic requirements, and what steps EPA Region 2 has taken to ensure that programs have achieved the intended environmental benefits. Region 2 requested this review due to longstanding concerns with USVI's financial systems and program implementation.

This report addresses the following EPA goals and cross-agency strategies:

- *Addressing climate change and improving air quality.*
- *Protecting America's waters.*
- *Cleaning up communities and advancing sustainable development.*
- *Protecting human health and the environment by enforcing laws and assuring compliance.*
- *Working to make a visible difference in communities.*
- *Launching a new era of state, tribal, local, and international partnerships.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

The full report is at: www.epa.gov/oig/reports/2015/20150417-15-P-0137.pdf

Conditions in the U.S. Virgin Islands Warrant EPA Withdrawing Approval and Taking Over Management of Some Environmental Programs and Improving Oversight of Others

What We Found

The USVI has not met program requirements for numerous activities related to implementing the Clean Air Act, Clean Water Act, Safe Drinking Water Act, and Underground Storage Tank/Leaking Underground Storage Tank programs. These activities included monitoring environmental conditions, conducting compliance inspections and enforcing program requirements. Management control weaknesses contributed to these shortcomings. Further, the USVI's reluctance to revise its financial system to comply with federal standards resulted in USVI not having unrestricted access to almost \$37 million in outstanding EPA grant funds awarded to support USVI's continuing environmental as well as other EPA-related programs since 2004. These deficiencies place the public and environment at increased risk by allowing unmonitored or excess pollutants into the air, land, surface waters and drinking water.

USVI's poor management of its environmental programs endangers public health and the environment. EPA awards over \$2 million a year in grant funds to support USVI's continuing environmental programs.

In its oversight, Region 2 has identified numerous program deficiencies in the USVI over the last few years, but the deficiencies continued. In some areas—such as the Underground Storage Tank/Leaking Underground Storage Tank and Safe Drinking Water Act programs—Region 2 oversight had not identified program deficiencies uncovered by our review or implemented procedures to ensure that deficiencies identified by Region 2 were corrected. Since the EPA retains responsibility for programs implemented on its behalf, such as those in the USVI, the agency needs to act to ensure that the public and environment are protected.

Recommendations and Planned Agency Corrective Actions

We made 19 recommendations, ranging from beginning withdrawal of USVI's authority for implementing EPA-authorized programs to providing additional EPA oversight. On February 10, 2015, we held a meeting with Region 2 to discuss the corrective action plan outlined in its January 12, 2015, response to the draft report. Based on our meeting and supplemental information provided by Region 2, the region's corrective action plan meets the intent of the report's 19 recommendations. All recommendations are considered resolved.

Noteworthy Achievements

The region responded to the USVI's financial system deficiencies by designating the USVI as a high-risk grantee, which placed additional grant restrictions on the USVI and requires it to implement a corrective action plan.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

April 17, 2015

MEMORANDUM

SUBJECT: Conditions in the U.S. Virgin Islands Warrant EPA Withdrawing Approval and Taking Over Management of Some Environmental Programs and Improving Oversight of Others
Report No. 15-P-0137

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Judith Enck, Regional Administrator
Region 2

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

EPA Region 2 offices having primary responsibility over the issues discussed in this report are the Clean Air and Sustainability Division, Clean Water Division, Division of Environmental Science and Assessment, Division of Enforcement and Compliance Assistance, Caribbean Environmental Protection Division, Emergency and Remedial Response Division, and Office of Policy and Management.

Action Required

You are not required to provide a written response to this report because you provided agreed-to corrective actions and planned completion dates for the report recommendations. The OIG may make periodic inquiries on your progress in implementing these corrective actions. Should you choose to make a final response, we will post your response on the OIG's public website, along with our memorandum commenting on your response. You should provide your response as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at <http://www.epa.gov/oig>.

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Introduction

Why We Did This Review

The U.S. Environmental Protection Agency's (EPA's) Region 2 requested this review due to longstanding concerns with the U.S. Virgin Islands' (USVI's) financial systems and implementation of EPA-delegated and authorized programs. Our objectives were to:

- Determine whether the environmental programs the USVI has implemented on the EPA's behalf have met EPA programmatic requirements.
- Determine what steps EPA Region 2 has taken to ensure that USVI programs have achieved the intended environmental benefits.

Region 2 also identified several concerns relating to USVI's financial and grant management and requested that the Office of Inspector General (OIG) address these concerns by analyzing selected payroll and payment documentation provided by the region. We also conducted a limited review of the EPA's and USVI's implementation of the Emergency Planning and Community Right-to-Know Act (EPCRA) and Risk Management programs based on concerns we identified.

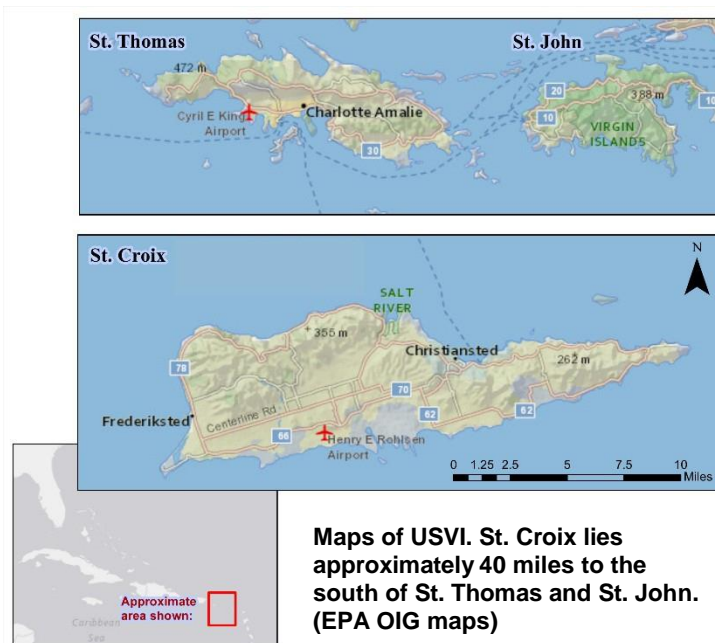
Background

Major environmental laws allow the EPA to authorize state, tribal and local governments—including U.S. territories—to conduct permitting, inspection and enforcement activities. Authorized governments must have adequate personnel, funding and authority to carry out the program. Laws allow the EPA to withdraw authorization if a government is not adequately carrying out the provisions of the law in administering or enforcing the program. For states without authorized program approval, the EPA can enter into grants or cooperative agreements with states to designate their governments to perform certain responsibilities as the “primary implementing agency.”¹

¹ For states and territories without approved Underground Storage Tank programs, such as the USVI, the EPA enters into grants/cooperative agreements with those programs, and the state program is designated as the primary implementing agency. States with approved programs have the lead role in Underground Storage Tank program enforcement. In states without an approved program, the EPA will work with state officials in coordinating Underground Storage Tank enforcement actions.

USVI Background

USVI is an unincorporated² territory of the United States. USVI is composed of three major islands—St. Croix, St. John and St. Thomas—and approximately 50 smaller islands. The total land area of the territory is approximately 134 square miles. The territory's capital is Charlotte Amalie on the island of St. Thomas. As of the 2010 U.S. Census, the population was 106,405.



Tourism is the USVI's primary economic activity. The islands normally host approximately 2 million visitors a year, many of whom visit on cruise ships. The manufacturing sector consists mainly of rum distilling. The agricultural sector is small, with most food being imported. International business and financial services are a small but growing component of the economy. In addition to importing food, most energy is also generated from imported oil, leading to electricity costs up to five times higher than the average U.S. price. The Virgin Islands Water and Power Authority operates desalination facilities to provide potable water since the islands have few freshwater resources except for rainwater. Until

February 2012, the HOVENSA plant located on St. Croix was one of the world's largest petroleum refineries and contributed about 20 percent of the territory's gross domestic product. The plant has since been largely shut down and now operates as an oil storage facility.

The USVI is geographically isolated from the U.S. mainland and has limited financial resources. In June 2014, the USVI Governor reported that USVI had an approximately \$30 million budget shortfall for 2014. The logistics and expense of traveling between islands, and from the U.S. mainland to the USVI, create additional challenges for both EPA Region 2 and the USVI for implementation and oversight of environmental programs.

The USVI's Department of Planning and Natural Resources (DPNR) is the government entity responsible for implementing EPA-delegated environmental programs as well as the Underground Storage Tank/Leaking Underground

² Although controlled by the U.S. government, only certain fundamental constitutional rights apply to unincorporated territories; additional rights must be granted by Congress.

Storage Tank program for which the USVI is designated as the primary implementing agency.

USVI Environmental Programs

USVI implements or enforces the following environmental programs:

Clean Water Act (CWA)³

- Section 106 Ambient Water Quality Monitoring
- Section 319 Nonpoint Source Pollution
- Section 402 Territorial Pollutant Discharge Elimination System (TPDES)
- Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000

Safe Drinking Water Act (SDWA)⁴

- Section 1443 Public Water Supply Supervision

Clean Air Act (CAA)⁵

- Air Pollution Prevention and Control
- Title V Operating Permits
- New Source Performance Standards
- Risk Management Program (RMP)
- Section 112 Air Toxics, including National Emission Standards for Hazardous Air Pollutants

Energy Policy Act of 2005 (EPAct 2005)⁶

- Underground Storage Tank (UST)/Leaking Underground Storage Tank (LUST) Programs

The EPA provides the majority of funding used to implement delegated programs in the USVI through performance partnership grants, which combine funding for several delegated programs into one grant. USVI's performance partnership grant provides funding to implement programs from the CAA (excluding Title V-related activities), CWA and SDWA. Each applicable Region 2 program office negotiates a set of workplan commitments with the USVI that identify how the USVI will use the grants funds to implement their environmental programs. The most recent performance partnership grant covers fiscal years (FYs) 2014–2015 and provides the USVI with up to \$4,632,096, or over 82 percent of the approved budget, to implement these programs.

The USVI is designated as the primary implementing agency for the UST/LUST program, which does not receive funding through the performance partnership grant. Instead, the EPA provides funding assistance to the USVI's UST/LUST program through cooperative agreements.

³ 33 U.S.C. § 1251 et seq.

⁴ 42 U.S.C. § 300f et seq.

⁵ 42 U.S.C. § 7401 et seq.

⁶ The Energy Policy Act of 2005 amended Subtitle I of the Solid Waste Disposal Act, the original legislation that created the underground storage tank program.

Responsible EPA Offices

The Region 2 divisions and offices responsible for implementing the recommendations in this report are identified in Table 1.

Table 1: Responsible EPA Region 2 Divisions

Region 2 division/office	Program area responsibility
Clean Air and Sustainability Division	CAA
Clean Water Division	CWA, SDWA
Division of Environmental Science and Assessment	CWA, SDWA
Division of Enforcement and Compliance Assistance	CWA, SDWA, UST/LUST, CAA
Caribbean Environmental Protection Division	CAA, CWA, SDWA
Emergency and Remedial Response Division	RMP, EPCRA
Office of Policy and Management	Grants

Source: OIG analysis.

Prior Reports by Other Organizations

Prior oversight reports by other organizations identified concerns with USVI financial accounting and internal controls:

- A 2006 U.S. Government Accountability Office report determined that the insular area governments, like that in the USVI territory, have had long-standing financial accountability problems, including late submission of required single audits, receipt of disclaimer or qualified audit opinions, and reporting of many serious internal control weaknesses. (*U.S. INSULAR AREAS: Economic, Fiscal, and Financial Accountability Challenges*, Report No. GAO-07-119, issued December 12, 2006.) Three of the report’s four recommendations have been implemented. One recommendation remains open pending GAO’s receipt of documentation showing that it was completed.
- A 2011 joint U.S. Department of the Interior (DOI) OIG and USVI OIG report found that the USVI legislature was not using sound business practices in its stewardship of public funds and resources, and there was an absence of transparency, accountability and documented procedures to prevent fraud, waste and mismanagement. The report identified weaknesses related to improper use of allotted funds, such as cash advances and employee bonuses, procurement of goods and services, and security of sensitive equipment. (*Administrative Functions - Legislature of the Virgin Islands*, Report No. VI-IN-VIS-0001-2010, issued November 28, 2011.) The most recent DOI OIG “Summary of Reports More Than 6 Months Old Pending Corrective Action” did not include the 2011 report.

Scope and Methodology

We conducted our work from November 2013 to October 2014 at Region 2 headquarters in New York, the region’s Caribbean Environmental Protection Division office in Puerto Rico, and USVI offices in St. Thomas and St. Croix. In conducting our work, we:

- Interviewed Region 2 managers and staff from the Caribbean Environmental Protection Division, Clean Air and Sustainability Division, Clean Water Division, Division of Enforcement and Compliance Assistance, Division of Environmental Science and Assessment, Emergency and Remedial Response Division, Office of Regional Counsel, and Office of Policy and Management.
- Interviewed managers and staff from USVI’s DPNR, Department of Public Works, Waste Management Authority and OIG.
- Reviewed data and documents pertaining to the USVI’s implementation of its environmental programs and Region 2’s oversight of those programs (see Table 2).

Table 2: Information reviewed by OIG

Document	USVI programs reviewed				
	CWA	SDWA	CAA	UST/LUST	Financial
State Review Framework reports	√		√		
Grant workplans and Region 2 end-of-year assessments of grant performance	√	√	√	√	
Enforcement files	√	√	√		
Permit files	√		√		
Inspection reports and files	√	√	√	√	
Monitoring data	√	√	√		
Compliance data	√	√	√	√	
Training documents and/or presentations	√		√		
Performance measures and results	√	√	√	√	
Consent decrees	√		√		
Memorandums of Agreement between Region 2 and USVI	√		√	√	
USVI payroll documentation					√
Formal correspondence and emails between USVI and EPA	√	√	√	√	√

Source: OIG analysis.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

EPA OIG Quick Reaction Report on USVI Beach Safety

The EPA OIG issued a quick reaction report in March 2014 because the USVI's lapse in beach sampling posed potential health hazards to humans and may have endangered the environment. We found that:

- DPNR did not monitor beaches between February 3–16, 2014, on St. Thomas and St. John. DPNR did not have a contract with the company collecting beach monitoring samples and had not paid the company for sampling work since July 2012.
- Consistent with its procedures for public notification, DPNR had issued press releases in two local newspapers that beaches had not been monitored. However, that may not have been adequate notice for tourists visiting the USVI as they may not have read the local newspapers.
- Region 2 took immediate action to address the lapse in sampling.
- Region 2 subsequently determined that DPNR had demonstrated that it can successfully complete beach sampling requirements without a contract.

(Quick Reaction Report: EPA Oversight Needed to Ensure Beach Safety in the U.S. Virgin Islands, Report No. 14-P-0155, issued March 31, 2014.)

USVI Implementation of Environmental Programs

The USVI has not effectively implemented several environmental programs, which can result in increased risk to the public and the environment from environmental pollutants. Additionally, the USVI has not revised its financial systems to comply with standards for federal grant recipients. Consequently, the EPA has not provided USVI with unrestricted access to almost \$37 million in outstanding grant funds. Factors contributing to program deficiencies included financial accounting system problems and other management control weaknesses.

Requirements Not Met or Concerns Noted

The USVI has not met program requirements for numerous activities related to implementing programs authorized under the CAA, CWA and SDWA. These requirements are generally included in the program-specific performance partnership grants workplan commitments negotiated between the EPA and USVI. The USVI, as the designated primary implementing agency, was also not meeting program requirements in the Energy Policy Act of 2005 and EPA Grant Guidelines for the UST/LUST program. We found problems with the USVI's program implementation in the following required program activities.

Table 3: Summary of environmental program requirements not met by USVI

Requirements not met	Relevant statute/program
Environmental monitoring	CWA, SDWA, CAA
Data input	CWA, SDWA, CAA, UST/LUST
Permitting	CWA, CAA
Facility inspection	CWA, SDWA, UST
Enforcement	CWA, CAA
Training	SDWA, CAA, UST
Other issues	CAA, UST

Source: OIG analysis of EPA data and documentation, and interviews.

Environmental Monitoring

The CWA requires that the USVI, as an authorized territory, monitor and analyze water quality to determine where water quality problems exist. The SDWA requires that USVI public water systems monitor their drinking water to ensure compliance with standards and report their results to the territory. Region 2 monitors USVI drinking water systems primarily by reviewing the violation data the USVI submits. Under the CAA, air pollution control agencies monitor ambient air concentrations to determine compliance with air quality standards established by the EPA. However, we found the following:

CWA Section 106 Ambient Water Quality Monitoring

Environmental monitoring is a mainstay of the CWA program. Water quality data collected under the CWA Section 106 Ambient Water Quality Monitoring Program provide the basis for identifying surface water that is not safe for swimming or fishing, and for developing data-based permit requirements and targeting efforts to improve surface water quality. The USVI receives \$1.1 million per year from the EPA for water quality monitoring, permits and enforcement. However, DPNR failed to comply with water quality workplan commitments because they failed to collect ambient samples in 11 of 25 quarters between FY 2007 and the first quarter of FY 2013. Within each sampling event, not all required samples were collected. For example, in FYs 2010–2011, the DPNR conducted three of eight sampling events, but Region 2 stated that for the three events, 68 percent of sites were not sampled or were missing required sampling parameters.

In FY 2010, the EPA placed DPNR under a Corrective Action Plan and revised the plan in FY 2012. The EPA considered declaring the DPNR program noncompliant, but this would revoke all funding for monitoring, permits and enforcement. Instead, in June 2012, the EPA offered to provide to DPNR in-kind assistance so that DPNR could continue its eligibility to receive CWA funding. The in-kind assistance funded a contractor to collect monitoring samples and provide DPNR with capacity building. The contractor began sampling in the fourth quarter of FY 2013. Although the EPA designed, solicited and manages the contract, the CWA Section 106 program remains the responsibility of DPNR under its CWA authorization. In our view, the DPNR program is noncompliant.

SDWA Program

During an on-site review, we identified water quality concerns associated with one of the two large drinking water systems in the USVI—the Virgin Islands Water and Power Authority drinking water utility on St. Thomas. We received information about problems with low residual chlorine, high turbidity and water color that may present human health risks. The National Primary Drinking Water Regulations require that there be residual chlorine in drinking water distribution systems to prevent bacteria introduced to the systems from reaching consumers. Under SDWA regulations, water color is considered a secondary quality issue—though color is not a contaminant by itself, it serves as an indicator of the potential presence of other contaminants, like metals.

We informed the region of our concerns on March 27, 2014. Region 2, DPNR, and the water utility collected samples in the St. Thomas distribution system on April 4, 2014. The region analyzed the samples for turbidity and noted the water color. However, Region 2 did not test for metals or bacteria, two contaminants that are sometimes indicated by water color and low residual chlorine.

On April 25, 2014, the region provided the site investigation report containing its results to the water utility. The report indicates that of 15 samples analyzed:

- Turbidity exceeded the recommended disinfection benchmark for eight.
- Chlorine for disinfection did not meet the recommended disinfection benchmark for eight, and was not present at all for one.⁷
- Color anomalies (ranging from very slightly yellow to dark red appearance) were identified for eight.



Drinking water sample collected by EPA contractor in the USVI in April 2014. (EPA photo)

Region 2 requested that the drinking water utility provide a corrective action plan to address the problematic areas in the distribution system. However, the region determined that without bacterial tests (which the region had not conducted) these results did not constitute health-based violations.

On May 14, 2014, the utility provided the EPA its corrective action plan and results of bacteria samples taken by the utility on April 4. The utility identified total coliform or fecal coliform bacteria at eight of the 10 sites where they sampled alongside EPA within the distribution system. The water utility results also identified low residual chlorine and high turbidity.

The utility agreed to take steps to address the situation with the following actions:

- Initiate a bi-weekly flushing to provide aesthetically acceptable water to affected areas. The utility indicated that it would take chlorine and turbidity measurements before and after flushing, and would collect additional total coliform samples about once per week.
- Conduct a stability study of its reverse osmosis water to familiarize staff with measuring corrosivity.

On July 18, 2014, Region 2 responded to the corrective action plan and wrote that it was pleased with the measures the utility outlined. Region 2 requested the water utility submit a status report showing the progress of its implementation as well as any reports generated related to the condition of the distribution system within 60 days. We remain concerned about this drinking water system for two reasons that were not addressed in Region 2's response to the utility:

- In an attachment to its response, the water utility provided 17 years of sampling data for historical context. The data showed no occurrences of bacteria prior to the EPA-accompanied sampling event in April 2014. The

⁷ The sample location without detectable chlorine was labeled in the sampling report as "pre-treatment," but the location—a bathroom sink in the water treatment plant—was not labeled on-site as pre-treatment.

appearance of bacteria for the first time on April 14, 2014, raises questions for us about the validity of the historical record at this utility.

- For routine monitoring, the National Primary Drinking Water Regulations require repeat sampling at sites with positive samples for bacteria to verify whether violations exist. The water utility results from April 2014 demonstrated that the majority of samples collected were positive for bacteria in the areas of concern within the distribution system. However, neither Region 2 nor the water utility collected repeat bacteria samples to determine adherence to SDWA regulations. As a result, the EPA, the water utility and the public do not know whether the bacteria results indicate a serious human health risk in the drinking water system on St. Thomas.

Effective and compliant USVI monitoring under SDWA is essential to ensuring that public drinking water is safe. In addition, effective Region 2 oversight of the USVI's management of the SDWA program is essential to ensuring that drinking water providers adhere to monitoring requirements and that drinking water problems are communicated to the public whenever it is required by SDWA.

CAA Ambient Air Quality Monitoring

Region 2 provides the USVI with grant funds to monitor inhalable coarse particulate matter (PM₁₀) and fine particulate matter (PM_{2.5}) for research and compliance with ambient air quality standards.⁸ The grant workplans specify that USVI operate the network in accordance with EPA regulatory requirements and enter the monitoring data into EPA's Air Quality System. The USVI's network consists of four PM₁₀ and two PM_{2.5} monitoring sites. Two sites have collocated monitors for a total of eight PM monitors in the USVI. We found:

- Numerous operational and maintenance issues resulted in periods of no or incomplete ambient air monitoring.
- No evidence of PM_{2.5} or PM₁₀ monitoring on St. Thomas from 2010 through 2013. However, Region 2 believed that certain PM_{2.5} and PM₁₀ data were collected on St. Thomas during this time period but have not been made available in the Air Quality System.

⁸ EPA regulations for air quality surveillance, in the Code of Federal Regulations (CFR) in 40 CFR Part 58, Appendix D, do not require any ambient monitoring for PM_{2.5} in areas with populations fewer than 500,000 when the most recent 3-year design value is less than 85 percent of the national ambient air quality standard. Further, monitoring for PM₁₀ is not required for populations under 250,000 when monitors record concentrations less than 80 percent of the national ambient air quality standard. USVI monitoring data for the period 2010–2012 show ambient concentrations below levels that would require monitoring. The EPA requires all monitoring organizations to conduct monitoring network assessments every 5 years to include determining whether additional sites are needed or whether existing sites are no longer needed and can be terminated. The next assessment is due in 2015, at which time the USVI and EPA plan to conduct a comprehensive review of the USVI network.

EPA generally requires that a monitoring agency collect 75 percent of a monitor’s scheduled samples in order to make valid comparisons to the national ambient air quality standards. Table 5 shows the percent of data that USVI collected and entered into the Air Quality System since 2009.

Table 5: Percent of PM_{2.5} and PM₁₀ data entered into Air Quality System by USVI, 2009–2013

Site	Pollutant	Sampling schedule	Year				
			2009	2010	2011	2012	2013
Waterfront, St. Thomas	PM _{2.5}	Daily	0	0	0	0	0
	PM ₁₀	Daily	4	0	0	0	0
Kings Airport, St. Thomas	PM ₁₀	Daily	27	0	0	0	0
Federal Aviation Administration, St. Croix	PM ₁₀	Daily	60	0	0	0	0
Bethlehem Village, St. Croix	PM _{2.5}	1 in 6 days	98	95	0	56	0
		1 in 6 days	46	46	0	26	0
	PM ₁₀	1 in 6 days	98	93	43	0	0
		1 in 6 days	48	46	20	0	0

Source: OIG analysis of data from EPA’s Air Quality System.

As shown in the above table, USVI has not met the minimum 75 percent data collection requirement for any monitors since 2010.

Data Input

The USVI is required to enter program data into several EPA information systems, depending upon the program. Data were incomplete or missing for the programs listed below.

- Data for the CWA Nonpoint Source Pollution Program Grants are tracked nationwide in the Grants Reporting and Tracking System. Region 2 stated that as it enters old projects into the tracking system it also adds GPS (global positioning system) coordinates. However, during our review, the USVI data in the system for nonpoint source project data had not been updated since 2009.
- Drinking water facilities may not be adhering to the appropriate drinking water regulations, specifically for disinfection. Drinking water data in the EPA’s Safe Drinking Water Information System for some small systems in the USVI are incorrect. Many residents rely on rain cisterns and drinking water sourced from desalinization reverse osmosis facilities operated by the USVI Water and Power Authority. We found that some of these surface water

systems were misclassified as ground water systems, which affects what contaminants they monitor. The federal regulations do not include a category for rain cisterns. However, classification as ground water systems is incorrect. Any system including a portion of surface water should be classified as surface water.

- CAA Air Quality Monitoring Program data collected were not entered into the Air Quality System database for the first and second quarters of 2011; the first, third and fourth quarters of 2012; and the second and third quarters of 2013.
- Inspection and compliance data for CAA facilities was not always entered or entered correctly into the Air Facility System. The Air Facility System contains compliance, enforcement and permit data for stationary sources regulated by EPA, state and local air pollution agencies. We reviewed the latest full compliance evaluation and related facility compliance information in the Air Facility System for 10 of the USVI's 12 major and synthetic minor sources. Specifically:
 - Seven of 10 facility Air Facility System records were missing multiple years of compliance and inspection data.
 - Three of 10 facility Air Facility System records contained incorrect dates for the completion of the full compliance evaluation and/or the receipt of the annual compliance certification.
 - Two of 10 facility Air Facility System records did not record receipt of annual compliance certifications that had been submitted.
- Incomplete UST/LUST program data issues were identified in Region 2's FYs 2011 and 2012 annual reviews. Specifically, we identified:
 - Incomplete UST facility information.
 - Incomplete and inconsistent LUST database information.

These data issues still existed and were unresolved during our onsite review in January 2014.

Permitting

CWA Programs

The DPNR did not have water quality-based limits included in many of the permits it approved. Also, some permits were not issued in a timely manner. Further, Region 2's 2014 review of USVI TPDES permits found significant deficiencies. For example:

- Fact sheets were either missing or did not provide adequate descriptions of facility location and treatment processes for publicly and non-publicly owned treatment works. For example, there was no discussion of the reasonable potential analysis, impairments or pollutants of concern; no description of facility processes; no summary of an endangered species review; and no facility diagrams.
- Region 2 found that many permits did not establish effluent limitations consistent with the requirements of 40 CFR § 122.45(d).⁹ In addition, the region was unable to recreate how the USVI developed effluent limitations based on the contents of the fact sheets and supporting record.
- Many of the receiving waters were considered impaired, but the fact sheet does not include a discussion of the impairments or their impact on the effluent limits established in the draft permit.¹⁰

The DPNR indicated to us that its CWA TPDES program does not allow the collection of permit fees. However, we found that this was not correct. USVI code allows for collection of permit fees, but DPNR was not collecting them.

CAA Title V Program

Region 2's 2003, 2007 and 2011 reviews of the USVI's Title V permit program identified significant delays in issuing permits. All major stationary sources emitting certain air pollutants are required to obtain Title V operating permits. Generally, major sources include those sources emitting 100 tons a year or more of a regulated pollutant. We reviewed various documents to confirm the region's oversight findings and their current status. Our work confirmed the findings of Region 2's oversight reviews and indicated that problems with issuing Title V operating permits within regulatory-mandated time frames continue.

Facility Inspections

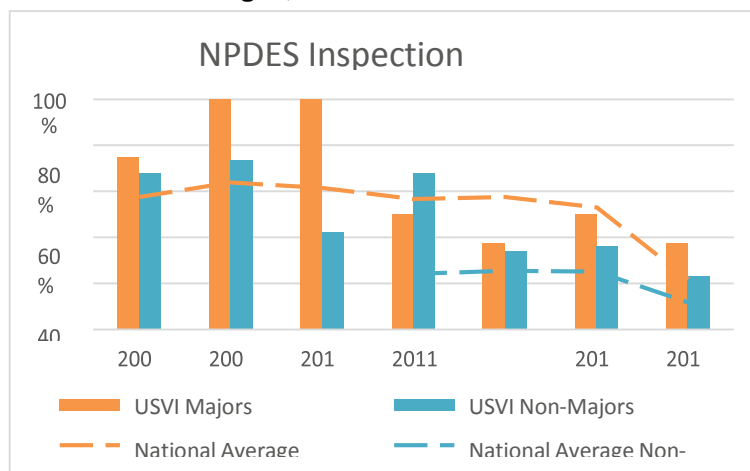
CWA TPDES Program

In FY 2014, there were eight major sources and 66 non-major sources with individual permits under the USVI's TPDES program. Requirements for the number and types of TPDES inspections developed in the Compliance Monitoring Strategy were not met. Also, the number of inspections conducted at major sources fell below the national average for states and other territories, as shown in Figure 1.

⁹ Title 40 CFR § 122.45(d) states that, for continuous discharges, all permit effluent limitations shall, unless impracticable, be stated as maximum daily and average monthly limitations for all dischargers other than publicly owned treatment works.

¹⁰ EPA said that these USVI waters are listed in the CWA Section 303(d) 2010 List of Impaired Waters.

Figure 1: Comparison of USVI TPDES inspection coverage and national averages, 2008–2014



Source: OIG analysis of EPA data.

SDWA Program

The DPNR conducted sanitary surveys of public water systems to evaluate source water, facilities, equipment, and operation and maintenance. We reviewed a sample of 11 completed sanitary surveys and found several areas of concerns. Within our sample, we found that several sanitary surveys did not adhere to EPA documentation guidance:

- Ten sanitary surveys did not include the signature of the DPNR inspector who conducted the survey.
- Seven sanitary surveys were missing the date when the last survey was completed.
- Six sanitary surveys did not include a site diagram of the water system.

Additionally, two sanitary surveys were documented in pencil, and one sanitary survey selected for the sample could not be located by the DPNR staff.

UST Program

For the UST program inspection report, we found the following:

- USVI could not locate and provide inspection report documentation to the OIG for eight of the 44 UST facilities for the 3-year inspection period FYs 2011 through 2013.
- Thirty-two of the inspection reports USVI provided to the OIG were incomplete in one or more of the following areas: signatures, reporting information or supporting documentation.
- An additional four inspection reports USVI provided to the OIG did not contain sufficient information to show that the inspection had occurred within the 3-year inspection period FYs 2011 through 2013.

Table 6: Missing information in USVI UST facility inspection reports, FYs 2011–2013

Types of missing information identified in UST facility inspection reports	Percentage of facility reports with missing information
Inspector signature missing	94
Owner/operator signature missing	44
Life expectancy for all facility tanks missing	75
Supporting documentation and photos not provided	100

Source: OIG review of USVI-provided UST facility inspection reports.

Enforcement

CWA TPDES Program

In FY 2014, there were eight major sources and 66 non-major sources with individual permits under the TPDES program. Four of the major sources were associated with power and wastewater treatment systems on St. Thomas and St. Croix; the other four were two resort hotels, the Virgin Islands Rum facility, and the shuttered HOVENSA oil refinery.

The wastewater systems have been under a consent decree with the EPA since 1985, but still suffer from chronic bypasses and overflows. The consent decree was designed to address infrastructure problems at wastewater treatment plants and one pump stations. However, deteriorating infrastructure continues to contribute to the USVI's water quality problems. Poorly separated wastewater and stormwater systems lead to sewage bypasses and overflows. Information provided by a wastewater treatment facility demonstrated that, during storms, volume at wastewater facilities may increase two-to-three times the capacity of the plant. Consequently, the volume overwhelms the capacity of wastewater facilities, leading to bypasses and overflows. Also, USVI employees said inoperable pump stations and inadequate pipes cause additional infrastructure ruptures and breakages.

Across all major and non-major TPDES permittees:

- Over 90 percent of facilities were in noncompliance over the past 6 years. This included all major facilities and between 91 and 98 percent of non-major facilities.
- The DPNR identified violations but did not always address these violations with enforcement actions.
- When the DPNR took enforcement actions, it did not issue formal enforcement actions to improve compliance. DPNR instead relies on informal enforcement actions.
- Under its informal enforcement actions, the DPNR required corrective action plans for correcting TPDES violations, but these were frequently not submitted by the violators.

CAA Title V Operating Permits Program

The USVI has nine facilities that are considered major sources and subject to Title V permitting requirements. An additional three facilities were classified as synthetic minor sources (i.e., they have the operating capacity to qualify as a major source but have agreed to federally enforceable limitations to keep their emissions below the major source threshold). USVI inspectors identified violations during inspections at 10 major and synthetic minor sources conducted from February 2012 through September 2013, but the only enforcement action taken by DPNR was the issuance of an administrative order and notice of violation to one synthetic minor source. Recent USVI inspections identified:

- Lack of approved or current permits. Seven of these nine facilities have been issued Title V operating permits. USVI needs to act on the remaining two initial landfill permit applications and two permit renewal applications.
- Late annual certifications.
- Emissions data not submitted to permitting authority.
- New equipment installed without obtaining required permits.
- No visible emissions readings conducted and facility staff not certified to perform these readings.
- No performance testing/stack testing.

Training

SDWA Program

DPNR does not have an operator certification program to help ensure adequate adherence to drinking water standards. Although SDWA authorizes the EPA to withhold funds from U.S. states, the District of Columbia and Puerto Rico for not having an operator certification program, this authorization to withhold funds does not apply to the USVI or other territories. At the time of our evaluation, DPNR reported that it had conducted a training session for this program in December 2013. However, milestones for establishing the operator certification program were eliminated from the EPA-USVI performance partnership grant workplan for FY 2014.

CAA Programs

Emission standards for many industries include opacity limits. Air inspectors must be trained and periodically recertified in visible emissions readings to determine compliance with these opacity standards. Due to a lack of training opportunities in the USVI, DPNR air inspectors have not been certified in visible emissions readings every 6 months and, therefore, cannot perform such readings during inspections. We also noted that other training commitments in the grant

work plan, such as attending air pollution training institute courses and EPA conferences on air monitoring, were not met.

UST Program

USVI has not completed owner/operator certification training for UST operation and maintenance, and for addressing emergencies caused by a spill or release. According to USVI, approximately 25 of the 44 active UST facilities have at least one certified operator. Training was suspended in August 2012 by the contractor due to nonpayment by USVI DPNR. According to the USVI, the training resumed in July 2014.

Other Issues

CAA Programs

The USVI has not submitted required infrastructure State Implementation Plans for the most recent revisions to ambient air quality standards. These plans are required whenever the EPA revises national ambient air quality standards and should describe how the pollution control agency plans to attain or maintain compliance with the new standard.

Findings Support Initiating CWA Program Withdrawal and Notice of Deficiency for CAA Title V Program

Our findings support beginning the process of withdrawing approval for the CWA program and issuing a notice of deficiency for the CAA Title V Operating Permits Program. The EPA Administrator may elect to begin withdrawal procedures for an approved CWA program when the program no longer complies with certain CWA requirements. Federal regulations at 40 CFR § 123.63 allow the EPA Administrator to withdraw authorization when an authorized state or territory fails to exercise control over activities that require regulation. Failures in any single area listed in 40 CFR § 123.63 are sufficient for the EPA Administrator to commence withdrawal procedures.

Deficiencies in Implementing CWA Program

The OIG findings in the USVI CWA program, as summarized in Table 7, demonstrate failures in multiple areas that warrant the EPA Administrator beginning the process required to withdraw program authorization.

Table 7: CWA criteria for withdrawal of program and OIG findings

40 CFR § 123.63	Criterion	Finding	Adequate for withdrawal?
(a)(1)	Legal authority no longer meets requirements.	Not evaluated.	N/A
(a)(2)	Operation of program fails to comply with requirements for: (i) Permit issuance. (ii) Permit requirements. (iii) Public participation.	(i) Permits sometimes delayed. (ii) Permits do not include water quality-based limits. (iii) Not evaluated.	Yes
(a)(3)	Enforcement program fails to comply by: (i) Not acting on violations. (ii) Not seeking adequate enforcement penalties or collecting fines. (iii) Not inspecting or monitoring activities.	(i) Identified violations did not lead to enforcement action. (ii) Enforcement actions frequently informal when formal action was warranted. (iii) Some requirements not met.	Yes
(a)(4)	Fails to comply with Memorandum of Agreement with Administrator.	Not evaluated.	N/A
(a)(5)	Fails to develop adequate regulatory program for developing water quality-based effluent limits in National Pollutant Discharge Elimination System/TPDES permits.	No water quality-based effluent limits established.	Yes

Source: OIG analysis.

Deficiencies in CAA Title V Operating Permits Program

The USVI’s failure to enforce Title V permit conditions warrants a notice of deficiency. The Title V implementing regulations (40 CFR Part 70) address the permitting authority’s failure to implement or enforce an operating permit program. Subsection 70.10(b) requires that any EPA-approved permitting program be conducted at all times in accordance with the requirements of Part 70 and any agreement between the Administrator and the permitting authority. Subsection 70.10(b)(1) requires the Administrator to notify the permitting authority if the Administrator makes a determination that the permitting authority is not adequately implementing or enforcing its program. If a permitting authority has not corrected the program deficiencies within 18 months of the notice of deficiency, the Administrator is required to promulgate, administer and enforce a whole or partial program 2 years after the date of such deficiency finding.

Criteria for issuing a notice of deficiency include failure to act on violations of permits or other program requirements, and failure to seek adequate enforcement

penalties and fines and collect all assessed penalties and fines. We noted the following:

- In 2003, Region 2 recommended that the USVI correct program deficiencies within 180 days or the region would issue a notice of deficiency. A notice of deficiency was not issued and similar problems were noted in the subsequent 2007 review.
- In 2007, Region 2 reported it had identified several issues of significance that could lead to a formal determination of program deficiency.
- Despite improvements in some areas, all deficiencies had not been corrected as of the region's 2011 review. Based on OIG analysis, deficiencies in key areas—such as acting timely on permit applications, including renewals, and enforcing permit violations—still have not been corrected and meet the regulatory criteria for program withdrawal.
- All five ongoing or finalized enforcement actions against Title V sources for violations of the CAA were initiated and led by the EPA, not the USVI.

Financial Mismanagement Underlies Some Program Management Failures

The USVI's financial situation negatively impacts its ability to meet regulatory requirements in implementing environmental programs. Specifically:

- DPNR's refusal to make the necessary changes to comply with 40 CFR § 31.20 requirements limits its access to federal grant funds. As of March 2, 2015, the EPA had not provided DPNR unrestricted access to almost \$37 million in outstanding grant funds because of deficiencies in DPNR's financial systems.
- DPNR management and staff stated that financial issues impede acquisition of necessary equipment and maintenance of adequate staff levels for environmental monitoring, permitting, and inspection and enforcement activities in some programs.
- Funding shortfalls impact the USVI's ability to meet data, training, and other programmatic and grant requirements for some programs.
- Region 2 said EPA funds are available for reimbursement of direct purchases, but DPNR employees said they cannot purchase necessary computers, vehicles, field equipment or gas cards for existing DPNR vehicles for some programs.
- The USVI Waste Management Authority's 2013–2018 Project Priority List estimated that projects totaling \$151 million are needed to improve wastewater infrastructure.
- According to Region 2 personnel, the USVI Waste Management Authority has estimated that it will need at least \$67 million for closure costs at two landfills.

Effects of Program Deficiencies

Deficiencies in program implementation can negatively affect public health and the environment. For example:

- DPNR's lack of equipment and resources for managing CWA programs may prevent the USVI from implementing environmental programs.
- Lack of ambient water quality data and total maximum daily loads hinders DPNR's ability to identify and target its activities toward areas of concern.
- DPNR's lack of enforcement of point source discharges, such as sewage leaks and spills, allows unchecked water pollution in local creeks and beaches. This pollution may lead to human health problems and contribute to coral death and other ecosystem effects.
- In general, delays in issuing Title V permits and a lack of enforcement of the permit requirements can result in the public being exposed to excessive levels of air pollutant emissions.
- USVI's noncompliance with UST provisions increases the risk of UST releases and contamination of groundwater.

Conclusions

The USVI has not effectively implemented several environmental programs. In particular, the USVI's implementation of the CWA and CAA Title V is deficient in key program areas. Deficiencies in DPNR's financial systems have prevented DPNR from potentially receiving almost \$37 million in outstanding grant funds, which further hinders its ability to properly implement its environmental programs. The deficiencies and weaknesses we identified in USVI's implementation of the CWA and CAA Title V programs, demand that Region 2 take substantial steps to remedy these issues and ensure that the USVI public and environment are protected.

Recommendations

To correct problems with the implementation of the CWA, we recommend that the Regional Administrator, EPA Region 2:

1. Request the EPA Administrator to begin the process of withdrawing the USVI CWA program authorization by ordering a hearing under 40 CFR § 123.64 and describing the CWA program deficiencies in the hearing order.

To address problems with the implementation of CAA programs, we recommend that the Regional Administrator, EPA Region 2:

2. Make a determination as to whether the USVI is adequately administering or enforcing its Title V operating permit program and, if it is not, notify USVI of this deficiency in accordance with 40 CFR § 70.10(b)(1).
3. During the next required 5-year network assessment of the USVI's ambient air quality monitoring network, determine whether the EPA should continue to provide grant funding to the USVI to operate the network as it is currently structured.

Agency Comments and OIG Evaluation

The region's planned corrective actions and estimated completion dates meet the intent of Recommendations 1 through 3. These recommendations are resolved and open, pending completion of the actions. No further response to this report is required for these recommendations.

Region 2's response to our recommendations and our evaluation of each proposed corrective action are in Appendix A. Our final report Recommendations 2 and 3 were numbered 6 and 9 in the draft report. Thus, the region's response to these recommendations refers to draft report Recommendations 6 and 9.

EPA Oversight of USVI Implementation of Environmental Programs

EPA Region 2's oversight reviews of USVI implementation of environmental programs over the last several years consistently documented performance problems. However, improvements in the USVI programs frequently did not result. Further, Region 2 oversight had not identified program deficiencies uncovered by our review or implemented procedures to ensure that deficiencies they identified were corrected. Since the EPA retains the responsibility for ensuring that USVI federal environmental programs are implemented and enforced, EPA Region 2 needs to take appropriate actions to ensure that environmental programs that continue to be delegated to USVI are properly implemented and the public and environment protected.

EPA Region 2 Oversight

The EPA's oversight reviews included:

- State Review Framework evaluations of the USVI's compliance and enforcement programs for the CWA TPDES and CAA stationary source programs in 2007, 2010 and the draft 2014 review.
- Annual program reviews for CWA Sections 106 and 319, and TPDES programs.
- Annual program reviews for the SDWA program.
- Evaluations of USVI's CAA Title V Program in 2003, 2007 and 2011.
- End-of-year reviews of USVI's CAA Section 105 grant workplan performance.
- Annual reviews of the UST/LUST program in FYs 2010, 2011 and 2012.

Our review noted problems in the following areas:

CWA Program Oversight

Region 2 oversight of the USVI's CWA programs identified program deficiencies and required that the USVI take measures to correct the deficiencies.

CWA TPDES oversight included:

- State Review Framework evaluations in 2003, 2007 and 2014.
- End-of-year reports on performance partnership grant activities.
- Comprehensive review of permit quality.
- Regular telephone calls with DPNR to discuss significant noncompliance (significant noncompliance action plan calls).
- Periodic oversight and joint inspections of wastewater treatment system.
- A consent decree for USVI Waste Management Authority wastewater treatment systems entered in 1985.

Further, according to Region 2 staff, CWA Ambient Water Quality Monitoring Program oversight included biannual data reviews and end-of-year reports on performance partnership grant activities. CWA Nonpoint Source Pollution Program oversight also included end-of-year reports on performance partnership grant activities.

Despite this level of Region 2 oversight, improved USVI program performance has not resulted. For example:

- The EPA required DPNR to develop a corrective action plan for its ambient water quality monitoring program but program performance did not improve.
- The EPA stated that DPNR provided Region 2 with funds from the USVI performance partnership grant to obtain a contract for in-kind water quality sampling, but the funds were not sufficient to complete all sampling tasks. Less than a year into the contract, Region 2 identified a \$268,000 shortfall in its budget for completing sampling. As a result, the contractor did not take samples in the second quarter of FY 2014 and, therefore, the program is still noncompliant.
- Some State Review Framework deficiencies identified in 2003 persisted through 2007 and 2014 reviews. All three reviews documented DPNR's noncompliance. The 2014 review showed that the priority issue affecting USVI TPDES program performance is that USVI is still not consistently and accurately identifying and addressing noncompliance, including significant noncompliance and high-priority violators. Also, the EPA found inaccurate data entry for all three reviews. The 2014 review showed that data in facility files are still not consistent with the national data system.
- DPNR identified TPDES violations but did not take enforcement action, and Region 2 also did not take enforcement action.

As such, initiating the withdrawal process for the CWA is warranted, as discussed in the previous report section. Notwithstanding any actions Region 2 takes to address deficiencies in the USVI's CWA program overall, oversight could be strengthened at this time for the wastewater program.

Specifically, in 1985, the EPA and USVI entered into a consent decree designed to correct the chronic problems with the USVI wastewater system. However, since 1985, bypasses and overflows continued to occur because the delivery and treatment system was inadequate to handle the flow volume. The consent decree did not result in solutions to chronic wastewater system deficiencies. During this time:

- Region 2 staff stated that they conducted regular inspections of the system, identifying violations.
- Region 2 staff informed us that the DOI and EPA provided at least \$6 million in FY 2012 to upgrade USVI wastewater systems. Two sewage treatment facilities were constructed—one on St. Thomas and another on

St. Croix. However, our review of EPA data showed that the St. Thomas and St. Croix facilities were both in violation of their permit limits for 12 consecutive quarters. Issues included noncompliance for fecal coliform, phosphorous, chlorine and flow limits.

- Other parts of the wastewater treatment system violated permit requirements. For example, one pump station violated its phosphorus limit by over 15,000 percent.
- Chronic sewage bypasses and overflows continue to occur, some lasting for days. The sewage released reaches local creeks and public beaches, threatening human health and the health of local ecosystems.

SDWA Program Oversight

Region 2 oversight identified issues in the SDWA program. However, our review identified additional issues not uncovered by the region. Region 2 conducted oversight of this program by reviewing end-of-year reports and issuing enforcement actions. In the performance partnership grant end-of-year reports for FYs 2010–2011 and FY 2012, the region identified the need for DPNR to reconcile the data reported in its Annual Compliance Report, end-of-year progress reports, and Safe Drinking Water Information System database. This remains an issue, because it was identified in the end-of-year report for FY 2013.

Based on enforcement data provided by Region 2, there has been a decline over the past 3 years in enforcement actions in USVI.

	FY 2012	FY 2013	FY 2014 through July
EPA Enforcement Actions	80	13	13

In a territory with SDWA primacy, the EPA takes an enforcement action either when the territory fails to act on a known violation or when the territory refers a system to the EPA for enforcement. Region 2 said its enforcement activity declined because referrals from the USVI declined.

Region 2 oversight of this program did not include a recent data verification. The most recent data verification occurred in 2003. This data verification identified issues with the USVI drinking water program. Our review also identified potential issues with drinking water quality, misclassified drinking water systems and sanitary survey documentation. However, Region 2’s oversight activities did not identify these program deficiencies.

To correct these Region 2 oversight issues and identify any additional deficiencies in the USVI SDWA program, Region 2 should conduct an updated SDWA data verification, and an analysis of whether performance partnership grant SDWA workplan items have been adequately completed by DPNR.

CAA Program Oversight

Region 2 conducted several reviews of USVI implementation of CAA programs. Our work generally confirmed the findings of these oversight reviews. These included reviews of:

- The Title V operating permits program.
- USVI's inspections and enforcement program for stationary sources, including Title V sources (as part of the State Review Framework process).
- The ambient air monitoring program.
- Other CAA requirements included as commitments in grant workplans.

Region 2 provided additional oversight and assistance to the USVI, which included:

- Initiating enforcement actions against five of the nine major stationary sources for violating their permit conditions.
- Conducting an ambient air toxics monitoring study in 2011 to assess air quality in USVI communities adjacent to an industrial area on St. Croix.
- Holding regular calls with DPNR to discuss action plans for facilities with significant noncompliance.
- Providing training and in-kind assistance.

Despite the oversight actions noted above, USVI's implementation of the Title V permits program warrants the EPA issuing a notice of deficiency as discussed in the prior report section. Notwithstanding any actions Region 2 takes to address deficiencies in the USVI's Title V program, CAA oversight could be strengthened at this time for Title V as well as other CAA programs. Specifically, we noted that:

- The Round 2 State Review Framework report identified corrective actions to address some prior review findings as completed even though similar problems continued. For example, a lack of enforcement actions to address high priority violations continued to be a problem cited in the Round 2 report. Also, at the time the Round 2 work began DPNR had not obtained access and entered data into EPA's air monitoring database as previously recommended.
- Region 2's Caribbean Environmental Protection Division did not conduct an end-of-year grant evaluation for FY 2011.
- Region 2 did not always provide training to the USVI by the agreed-to date.
- Region 2 did not have a current/comprehensive record of which air rules/programs have been delegated to the USVI.
- EPA CAA programs and rules delegated to the USVI for implementation were not readily identifiable and available to the public on the EPA's Internet site to enable the public to determine the USVI's roles and responsibilities for implementing and enforcing air programs.

UST/LUST Program Oversight

EPA Region 2 oversight of the UST/LUST program included:

- Conducting annual UST/LUST reviews, including review of a small sample of inspections conducted by USVI.
- Monitoring UST/LUST grant terms and conditions.
- Communicating with USVI UST/LUST personnel regarding programmatic implementation and issues, as needed.
- Establishing a 1992 Memorandum of Agreement between USVI and Region 2.

Region 2 oversight of the UST program could be strengthened by implementing management controls in some areas. We noted the following:

- Region 2 oversight efforts were not ensuring USVI was compliant with EPCRA 2005 and EPA grant guidelines.
- Region 2 was not resolving UST inspection quality issues identified in prior annual reviews.
- Region 2 was relying primarily on the USVI's reported certifications of completed UST inspections to determine compliance with requirements.
- Region 2 oversight activities were not ensuring the USVI LUST database was complete.
- Region 2 did not have written procedures for tracking and resolving program deficiencies and concerns identified in annual reviews, and did not have regular communications to resolve unmet milestones/other issues.
- Region 2 had not provided ample enforcement assistance to USVI. USVI requested enforcement assistance for two of its LUST facilities. Region 2 issued notices of violation to each facility, but the facilities did not respond and Region 2 did not follow up.
- Region 2 has not updated the Memorandum of Agreement with the USVI to incorporate new provisions and responsibilities from the EPCRA 2005.

Conclusions

EPA Region 2 has conducted numerous reviews and other oversight activities of USVI implementation of environmental programs over the last several years. Generally, these activities have been effective in identifying program deficiencies. However, as discussed in the prior section, these efforts have not always been successful in improving USVI performance, and we recommend beginning the process for withdrawal of USVI program authorization for the CWA and determining whether a notice of deficiency is warranted for the CAA Title V program. Notwithstanding Region 2's planned actions for the CWA and CAA Title V programs, at this time improvements are needed in the region's oversight of all environmental programs that we reviewed for this report.

Recommendations

To improve oversight of the CWA, we recommend that the Regional Administrator, EPA Region 2:

4. Monitor the wastewater consent decree goals and report to the public on whether they are being achieved on time.
5. Oversee USVI prioritization of wastewater funds to ensure the funds address the highest priority wastewater system needs as quickly and comprehensively as possible.

To improve oversight of the SDWA, we recommend that the Regional Administrator, EPA Region 2:

6. Immediately complete a data verification for the USVI drinking water program and make corrections as necessary to ensure that (a) DPNR correctly classifies public water systems' source water and (b) public water systems are adhering to the appropriate drinking water rules and monitoring schemes.
7. Complete an analysis of SDWA workplan items to ensure that DPNR self-certified information for the end-of-year reports is accurate and implementation milestones are set, monitored and met for the USVI operator certification program; and review a sample of sanitary surveys for compliance with EPA guidance providing the USVI with corrections and advice where the sampled sanitary surveys do not comply.

To improve oversight of CAA programs, we recommend that the Regional Administrator, EPA Region 2:

8. Develop a listing of all delegations and other agreements for implementing air programs in the USVI to be posted on the Region 2 website.
9. Establish a timeframe for Region 2 to complete end-of-year grant performance evaluations.

To improve oversight of the UST/LUST program, we recommend that the Regional Administrator, EPA Region 2:

10. Implement management controls to verify compliance with EPA Act 2005 and EPA grant guideline provisions, including (a) verification of inspection of all sites in USVI's actual UST inventory every 3 years and (b) completion of required USVI operator training.

11. Implement management controls to monitor resolution of identified deficiencies and recommendations provided in the EPA's annual reviews.
12. Take actions necessary to resolve EPA Region 2-initiated LUST site enforcement actions at two facilities in USVI.
13. Establish an updated UST/LUST Memorandum of Agreement with the USVI that reflects changes and new provisions resulting from the EPAct 2005. The Memorandum of Agreement should also outline roles, responsibilities and expectations.

To ensure that the EPA's environmental programs are properly implemented in the USVI, we recommend that the Regional Administrator, EPA Region 2:

14. Develop a plan to ensure that the USVI's environmental programs meet minimum requirements in the event that the USVI does not or cannot adequately implement the programs.

Agency Comments and OIG Evaluation

The region's planned corrective actions and estimated completion dates meet the intent of Recommendations 4 through 13. These recommendations are resolved and open, pending completion of the actions. The agency has completed correction action on Recommendation 14, and that recommendation is considered resolved and closed. No further response to this report is required for these recommendations.

Region 2's response to our recommendations and our evaluation of each proposed corrective action are in Appendix A. Our final report Recommendations 4, 5, 6, 7, 8 and 9 were numbered 2, 3, 4, 5, 7 and 8, respectively, in the draft report. Thus, the Region's response to these recommendations refers to draft report Recommendations 2, 3, 4, 5, 7 and 8.

Emergency Planning and Response

We reviewed the implementation of two related emergency planning and response programs—the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Risk Management Program (RMP). EPCRA covers many hazardous chemicals, including the 140 RMP-regulated chemicals. However, EPCRA helps communities plan for emergencies involving hazardous chemicals while the RMP primarily focuses on industry activities to prevent such releases. The Emergency Planning and Community Right-to-Know Act (EPCRA) is largely implemented at the state (territory) and local level—notably, those provisions dealing with emergency planning. Although the RMP was delegated to the USVI, Region 2 in fact implements the program because of the small number of RMP facilities in the USVI. We conducted a limited review of the USVI’s and EPA’s implementation of these programs based on concerns we identified during our review of CAA programs.

Emergency Planning and Community Right-to-Know Act

Local emergency planning committees (LEPCs) identify chemical hazards; develop emergency response plans; and encourage attention to chemical safety, risk reduction and accident prevention in their communities. However, we found that the USVI’s LEPCs are not fully operational:

- St. Croix’s LEPC became defunct in November 2011.
- St. Thomas’ and St. John’s LEPCs were only established in 2013.

DPNR said it began working in 2013 to get LEPCs back up and running.

Facilities that store or use certain hazardous chemicals above established threshold amounts must report this information to LEPCs and emergency response organizations. These reports are known as EPCRA Tier II reports. We reviewed shipping data from the U.S. Department of Commerce to identify hazardous chemicals shipped from the U.S. mainland to USVI in 2012, as well as USVI facility data in the Toxics Release Inventory, and compared that information to the EPCRA Tier II reports submitted to USVI.

We found that facilities may not be accurately reporting hazardous chemicals via required Tier II reports. Shipments of seven different hazardous chemicals to the USVI in 2012 were unaccounted for in the EPCRA Tier II reports. Also, Toxics Release Inventory data indicate one facility should have submitted EPCRA Tier II reports in 2011 and 2012 but did not. As a result of these conditions, the USVI may not be prepared to adequately respond to a chemical release or emergency.

Risk Management Program

Region 2 delegated the CAA 112(r) RMP to USVI but decided to retain responsibility for implementing the program since USVI has only one reported RMP-covered facility (HOVENSA). We reviewed data on chemical shipments to the USVI to determine whether facilities may be subject to RMP requirements but have not filed risk management plans with the EPA.

The data reviewed indicates a potential for Risk Management Plan non-filers. For example, in 2012, over 188,000 pounds of chlorine—a chemical covered by the RMP—was shipped to facilities in USVI but unreported in EPCRA Tier II reports and the lone Risk Management Plan (HOVENSA). The Risk Management Plan reporting threshold for chlorine is 2,500 pounds contained in any one process.

Recommendations

We recommend that the Regional Administrator, EPA Region 2:

15. Assist USVI with getting LEPCs fully operational.
16. Assist USVI in implementing procedures to identify EPCRA Tier II non-filers.
17. Review EPCRA and other data to ensure that all Risk Management Program-covered facilities are reporting to the EPA.

Agency Comments and OIG Evaluation

Region 2 concurred with Recommendations 15, 16 and 17 and provided corrective action plans and estimated completion dates that meet the intent of these recommendations. These recommendations are resolved and open, with agreed-to corrective actions pending. No further response to this report is required for these recommendations.

Region 2's full response to our recommendations and our detailed assessment of each proposed corrective action are in Appendix A.

Financial Management

The USVI faces challenges with the adequacy of its financial systems and in obtaining the necessary funding for environmentally related projects. In particular, DPNR's financial system does not comply with the standards in 40 CFR § 31.20,¹¹ and DPNR has not agreed to make needed changes.

Under 40 CFR § 31.20(a)(2):

A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

Region 2 has implemented additional documentation requirements for DPNR grants and has not authorized drawdown of grant funds due to lack of supporting documentation. Based on data provided by DPNR in its January 21, 2014, letter to Region 2, if USVI changed its accounting to comply with regulations and grant requirements, DPNR could receive reimbursement for expenses incurred under EPA grants up to \$10.8 million.

Correspondence from Region 2 to the DPNR, dated December 20, 2013, outlined five financial management issues pertaining to the USVI DPNR. The region provided the OIG with payroll and other cash reimbursement supporting documentation for two DPNR grants (LS00235709 and BG99256109) and requested that the OIG review each issue and identify any potential concerns:

- **Issue 1:** Accounting concerns relating to incorrect charging to federal grant accounts.
- **Issue 2:** Lack of an acceptable allocation methodology for employee non-working hours.
- **Issue 3:** Lack of acceptable written methodology for allocation of shared costs.
- **Issue 4:** Lack of documentation demonstrating procedures for correctly calculating and applying indirect cost rates.
- **Issue 5:** Unliquidated balance of funds remaining on assistance agreements awarded to DPNR.

¹¹ During the period of our review, states were required by the EPA to maintain adequate financial management systems according to 40 CFR § 31.20. On December 26, 2014, 2 CFR Part 200, the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, became effective. The EPA adopted these regulations. The new relevant section—2 CFR § 200.302—is substantively similar to 40 CFR § 31.20. The noncompliance is the same under either regulation; therefore, our findings and recommendations remain unchanged.

Details on what we found for each issue follow.

Findings on Financial Management Issues

Issue 1: *Accounting concerns related to incorrect charging to federal grant accounts.*

We were unable to determine whether the costs were charged to the correct federal grant accounts. DPNR did not provide reports from its official accounting system (Enterprise Resource Planning). Instead, DPNR provided Quickbooks reports with reimbursement packages. Without reconciliation to Enterprise Resource Planning, there is no assurance that the amounts reflected in Quickbooks are actually paid.

Issue 2: *Lack of an acceptable allocation methodology for employee non-working hours.*

We agree with the region's conclusion that the USVI's methodology is not acceptable. Specifically, we noted that:

- Allocation and charging of indirect time (e.g., vacation, holiday, sick) was not equitable.
- Every pay period under Grant No. BG99256109 had at least one instance where indirect time was charged without any direct time charged to the grant. Those indirect hours ranged from 4 hours up to one instance of 65 hours.
- Timesheets under both Grant Nos. BG99256109 and LS00235709 do not appear to reflect actual time. Based on DPNR's correspondence with Region 2, time charged may be based on budgets and not actual hours.

Issue 3: *Lack of acceptable written methodology for allocation of shared costs.*

We could not determine whether this is an issue based on the records provided by Region 2. DPNR's comments mentioned a cost allocation plan, but Region 2 said DPNR did not provide a cost allocation plan. Instead, DPNR provided an example of how it calculated one type of allocation. An example calculation of one type of allocation does not meet the requirements under 2 CFR Part 225, Appendix A, Section F. According to the regulation, indirect cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived. One method would not produce equitable allocation for all cost types. For example, square footage would produce equitable allocation for rental costs, but not for copying or telephone costs.

Issue 4: *Lack of documentation demonstrating procedures for correctly calculating and applying indirect cost rates.*

The records provided by Region 2 did not include DPNR's claim for indirect costs and no data were provided on indirect cost calculations. Therefore, we were unable to opine on this issue.

Issue 5: *Unliquidated balance of funds remaining on assistance agreements awarded to DPNR.*

Region 2 did not provide the accounting details for us to review the unliquidated balance. However, according to the DPNR, as of October 1, 2013, the DPNR had just over \$16.4 million in unspent grant funds. During a meeting with Region 2, it was agreed that the region would have more accurate information to make this determination than the OIG. Therefore, we did not review the unliquidated balance and relied on DPNR's data for the amount stated in our draft report. In response to the draft report, the region stated that the unliquidated balance is a fluid amount which fluctuates as the region makes payments, resolves disputes and bills for collection, and awards new funds to the USVI. The current unspent funds under the USVI assistance agreements is approximately \$37 million.

Although no review was done in this area, the region should consider the requirements of the Office of the Chief Financial Officer's Resource Management Directive System 2520-03, *Standard Operating Procedures: Deobligating Unliquidated Obligations*. This directive provides guidance for deobligating grants, contracts and interagency agreements. The procedure defines a valid obligation as one for which appropriated funds are still available and an actual need still exists within the life of that appropriation. An inactive obligation is an obligation where there has been no activity for 6 months (180 days). If the region finds that no activity has occurred on any open grants for 180 days, the region should consider whether any outstanding grant balances can be deobligated and put to better use.

USVI Designated as a High Risk Grantee

On May 23, 2014, EPA Region 2 designated the USVI as a "high risk" grantee under 40 CFR § 31.12. Region 2 found that DPNR's management system did not meet required management standards, and DPNR had not conformed to the terms and conditions of previous awards. Region 2's determination requires additional restrictions and requirements for DPNR to follow, as well as corrective actions from DPNR. DPNR appealed the designation on June 20, 2014. The EPA denied the appeal on July 16, 2014, stating that DPNR did not provide any documentation to warrant reversal of the EPA's designation. On July 30, 2014, the DPNR requested another review of Region 2's July 16, 2014, appeal decision. The Regional Administrator denied DPNR's request on October 22, 2014, and upheld the "high risk" designation.

Conclusions

USVI has been unwilling to make the necessary changes to comply with 40 CFR § 31.20 regulations on accounting standards for federal grant recipients. Region 2 has attempted to address concerns to date and provide assistance to the USVI. Nonetheless, some USVI assistance agreements may have funds that can be put to better use.

Recommendations

We recommend that the Regional Administrator, EPA Region 2:

18. Develop a plan to address currently uncompleted tasks and activities, and develop a schedule for reprogramming grant funds to accomplish these tasks if USVI does not or cannot complete them. Upon completion of the financial management corrective actions, follow the Office of the Chief Financial Officer's Resource Management Directive System 2520-03 to determine whether any of the current unspent funds of approximately \$37 million under the USVI assistance agreements could be put to better use.
19. Designate a person to coordinate and periodically report to the Regional Administrator on the status and implementation of USVI financial systems, as well as environmental programs conducted on the EPA's behalf, until such time that the Regional Administrator determines that sufficient progress has been made to discontinue periodic reporting.

Agency Comments and OIG Evaluation

Region 2 proposed an alternative action to address Recommendation 18. Based on a meeting to discuss the region's draft report comments and planned actions, the region provided additional clarifications on its draft response with milestone dates for completion. We revised the recommendation with the region's concurrence. This recommendation is resolved and open, with the agreed-to corrective actions pending. No further response to this recommendation is required.

Region 2 concurred with and completed action to address Recommendation 19 and the recommendation is resolved and closed with action completed. No further response to this recommendation is required.

Region 2's full response to our recommendations and our detailed assessment of each proposed corrective action are in Appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	20	To correct problems with the implementation of the CWA, request the EPA Administrator to begin the process of withdrawing the USVI CWA program authorization by ordering a hearing under 40 CFR § 123.64 and describing the CWA program deficiencies in the hearing order.	O	Regional Administrator, Region 2	3/31/16		
2	21	To address problems with the implementation of CAA programs, make a determination as to whether the USVI is adequately administering or enforcing its Title V operating permit program and, if it is not, notify USVI of this deficiency in accordance with 40 CFR § 70.10(b)(1).	O	Regional Administrator, Region 2	3/31/16		
3	21	To address problems with the implementation of CAA programs, during the next required 5-year network assessment of the USVI's ambient air quality monitoring network, determine whether the EPA should continue to provide grant funding to the USVI to operate the network as it is currently structured.	O	Regional Administrator, Region 2	9/30/15		
4	27	To improve oversight of the CWA, monitor the wastewater consent decree goals and report to the public on whether they are being achieved on time.	O	Regional Administrator, Region 2	9/30/15		
5	27	To improve oversight of the CWA, oversee USVI prioritization of wastewater funds to ensure the funds address the highest priority wastewater system needs as quickly and comprehensively as possible.	O	Regional Administrator, Region 2	9/30/15		
6	27	To improve oversight of the SDWA, immediately complete a data verification for the USVI drinking water program and make corrections as necessary to ensure that (a) DPNR correctly classifies public water systems' source water and (b) public water systems are adhering to the appropriate drinking water rules and monitoring schemes.	O	Regional Administrator, Region 2	6/30/15		
7	27	To improve oversight of the SDWA, complete an analysis of SDWA workplan items to ensure that DPNR self-certified information for the end-of-year reports is accurate and implementation milestones are set, monitored and met for the USVI operator certification program; and review a sample of sanitary surveys for compliance with EPA guidance providing the USVI with corrections and advice where the sample sanitary surveys do not comply.	O	Regional Administrator, Region 2	9/30/15		
8	27	To improve oversight of the CAA, develop a listing of all delegations and other agreements for implementing air programs in the USVI to be posted on the Region 2 website.	O	Regional Administrator, Region 2	6/30/15		
9	27	To improve oversight of the CAA, establish a timeframe for Region 2 to complete end-of-year grant performance evaluations.	O	Regional Administrator, Region 2	9/30/16		

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
10	27	To improve oversight of the UST/LUST program, implement management controls to verify compliance with EPAAct 2005 and EPA grant guideline provisions, including (a) verification of inspection of all sites in USVI's actual UST inventory every 3 years and (b) completion of required USVI operator training.	O	Regional Administrator, Region 2	12/31/15		
11	28	To improve oversight of the UST/LUST program, implement management controls to monitor resolution of identified deficiencies and recommendations provided in the EPA's annual reviews.	O	Regional Administrator, Region 2	12/31/15		
12	28	To improve oversight of the UST/LUST program, take actions necessary to resolve EPA Region 2-initiated LUST site enforcement actions at two facilities in USVI.	O	Regional Administrator, Region 2	9/30/16		
13	28	To improve oversight of the UST/LUST program, establish an updated UST/LUSR Memorandum of Agreement with the USVI that reflects changes and new provisions resulting from the EPAAct 2005. The Memorandum of Agreement should also outline roles, responsibilities and expectations.	O	Regional Administrator, Region 2	9/30/18		
14	28	To ensure that the EPA's environmental programs are properly implemented in the USVI, develop a plan to ensure that the USVI's environmental programs meet minimum requirements in the event that the USVI does not or cannot adequately implement the programs.	C	Regional Administrator, Region 2	2/20/15		
15	30	Assist USVI with getting LEPCs fully operational.	O	Regional Administrator, Region 2	9/30/16		
16	30	Assist USVI in implementing procedures to identify EPCRA Tier II non-filers.	O	Regional Administrator, Region 2	9/30/16		
17	30	Review EPCRA and other data to ensure that all Risk Management Program-covered facilities are reporting to the EPA.	O	Regional Administrator, Region 2	9/30/16		
18	34	Develop a plan to address currently uncompleted tasks and activities, and develop a schedule for reprogramming grant funds to accomplish these tasks if USVI does not or cannot complete them. Upon completion of the financial management corrective actions, follow the Office of the Chief Financial Officer's Resource Management Directive System 2520-03 to determine whether any of the current unspent funds of approximately \$37 million under the USVI assistance agreements could be put to better use.	O	Regional Administrator, Region 2	9/30/18	\$37,000	
19	34	Designate a person to coordinate and periodically report to the Regional Administrator on the status and implementation of USVI financial systems, as well as environmental programs conducted on the EPA's behalf, until such time that the Regional Administrator determines that sufficient progress has been made to discontinue periodic reporting.	C	Regional Administrator, Region 2	2/12/15		

¹ O = Recommendation is open with agreed-to corrective actions pending.
C = Recommendation is closed with all agreed-to actions completed.
U = Recommendation is unresolved with resolution efforts in progress.

Agency Response to Draft Report and OIG Comments

The text of the EPA response along with our analysis is provided below.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2

January 12, 2015

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report “Conditions in the U.S. Virgin Islands Warrant EPA Taking Over Management of Some Environmental Programs and Improvement of Others,” dated October 30, 2014.

FROM: Judith A. Enck /s/
Regional Administrator

TO: Carolyn Copper
Assistant Inspector General, Office of Program Evaluation
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. Following is a summary of the Agency’s overall position, along with its position on each of the report recommendations. For those report recommendations with which the Region agrees (recommendations 1 through 13, 15, 16, 17, and 19), we have provided either high-level intended corrective actions and estimated completion dates to the extent we can or reasons why we are unable to provide high-level intended corrective actions and estimated completion dates at this time. For those report recommendations with which the Region proposes another approach (recommendations 14 and 18), we have explained our position and proposed an alternative to each recommendation. For your consideration, we have also included a Technical Comments Attachment to supplement this response (see Attachment 2).

AGENCY’S OVERALL POSITION

Region 2 again thanks the Office of Inspector General for agreeing to perform this voluminous and complex evaluation, and its substantial commitment of resources in performing the evaluation, the results of which we substantially support.

AGENCY’S RESPONSE TO REPORT RECOMMENDATIONS

Rather than using the standard format below, because of the large number of recommendations and associated explanations, we’ve moved the text to Attachment 1.

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
	See Attachment 1		

Alternative Actions Proposed

No.	Recommendation	Agency Explanation/Response	Proposed Alternative
	See Attachment 1		

CONTACT INFORMATION

If you have any questions regarding this response, please let me know or have your staff contact John J. Svec, Region 2’s Audit Coordinator, at (212) 637-3699.

Attachments

cc: Christine El-Zoghbi, Deputy Assistant Inspector General

Attachment 1

Agreements

OIG Recommendation No. 1

To correct problems with implementation of the Clean Water Act (CWA), we recommend that the Regional Administrator, EPA Region 2 request the EPA Administrator to begin the process of withdrawing the USVI CWA program authorization by ordering a hearing under 40 CFR 123.64 and describing the CWA program deficiencies in the hearing order.

Region 2 Proposed Corrective Action and Time

EPA thanks the OIG for the recommendation, and agrees with the OIG that stronger actions by EPA are necessary to ensure improvements to the USVI's NPDES program.

Region 2 acknowledges that beginning the process of withdrawing the USVI CWA program authorization is an option, and Region 2 will give it consideration as we develop a comprehensive approach to ensure that appropriate corrective actions are taken in a timely manner.

EPA is responsible for oversight of authorized state programs, as provided by CWA Section 402 (c) (2). EPA works with authorized states to meet NPDES permitting and enforcement program objectives through a variety of actions, including reviewing draft permits; initiating federal inspection and enforcement actions when necessary; providing capacity building, including training and developing tools and templates for program implementation; conducting formal program reviews through the State Review Framework (SRF) for compliance and enforcement programs and the Permit Quality Review (PQR) for the permitting program; and entering into annual work plans under the CWA 106 grants process. For over 25 years, EPA has engaged in these efforts to address specific areas of the NPDES program in the USVI (known as the Territorial Pollution Discharge Elimination System (TPDES) program) in need of significant improvement. EPA has also invested significant federal resources in taking legal enforcement actions in the USVI, where most of the major NPDES facilities are owned or operated by the USVI government. EPA has taken enforcement actions at five of the USVI's eight major facilities. Four of those five facilities are owned by the USVI. The five facilities at which EPA took enforcement action are: Hovensa, VI Water and Power Authority – St. Croix, Anguilla Wastewater Treatment Facility, VI Water and Power Authority – St. Thomas, and Red Point Wastewater Treatment Facility – St. Thomas. Historically, the USVI has not taken any formal enforcement actions at either noncompliant major or non-major facilities.

In September 2014, EPA regional and headquarters staff from the Office of Water, Office of Enforcement and Compliance Assurance and Region 2, examined key issues hampering the USVI's performance in running the TPDES program. EPA found serious problems with the USVI's performance in administering the NPDES program, including lack of appropriate enforcement follow-up for significant violations at NPDES permitted facilities identified by the recent SRF assessment, many of which are owned by the USVI government. EPA determined that enhanced enforcement in the USVI should occur immediately to ensure more systematic and

robust formal enforcement against CWA violators in the USVI, and that EPA will implement an accountable and aggressive TPDES permit improvement effort based on the findings of the recently completed EPA Permit Quality Review. EPA agrees with the OIG that the significant deficiencies identified require EPA action and that initiating the process of withdrawing the USVI program authorization for the NPDES CWA program might be an appropriate option. As this is a serious action, EPA intends to assess various possible actions to determine the most effective and efficient method for improving performance in the CWA NPDES program in the VI.

EPA proposes the following actions to resolve the challenges in the USVI TPDES program:

- Implement enhanced CWA enforcement immediately in the USVI to ensure that TPDES violators receive formal enforcement responses as warranted under an effective and fair enforcement response policy.
- Implement an accountable and aggressive schedule for correcting Tier 1 findings of *EPA's 2014 Permit Quality Review* for the USVI, including developing USVI TPDES permit and fact sheet templates to improve the efficiency, consistency and completeness of permits and fact sheets and ensure the appropriate use of the *USVI Reasonable Potential Tool* to determine whether pollutants detected in the effluent have a reasonable potential to exceed the USVI's numeric water quality standards. The tool will increase efficiency, improve the consistency of effluent limitation development, and improve the completeness and transparency of the administrative record by documenting the basis for water quality-based effluent limitations.
- Send a letter from the Regional Administrator to the Governor of the VI communicating the problems with the TPDES program and including information on the option of voluntary transfer of program responsibilities to EPA.
- At any time in this process, EPA can decide the USVI's progress is not adequate and order a hearing under Section 123.64 and describe in the order for the hearing the program deficiencies.

EPA will continue to review the USVI's performance in the months ahead, and will respond to the Inspector General as to the most effective and efficient methods of improving performance in the CWA NPDES program in the VI, including whether to initiate withdrawal of approval of the USVI's NPDES program. Please note that management of the NPDES program by EPA would require additional resources.

OIG Response to 1: Based upon discussions during our meeting on February 10, 2015, the region provided additional details on how it plans to enhance program oversight. The region plans to implement its enhanced oversight by March 6, 2015, and make a determination of whether to initiate withdrawal of approval of the USVI's National Pollutant Discharge Elimination System program by March 31, 2016. The region said that after 1 year of implementing its enhanced oversight and corrective actions in the USVI, the EPA will evaluate whether the efforts are working and make a determination about whether to initiate withdrawal of the USVI NPDES program. We accept the region's response not to initiate withdrawal at this point since it plans to reinforce its oversight in response to our findings, and make an independent determination of whether to initiate program withdrawal by March 31, 2016. The status of this recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 2

To correct problems with implementation of the CWA, we recommend that the Regional Administrator, EPA Region 2 monitor the wastewater consent decree goals and report to the public on whether they are being achieved on time.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Three EPA Region 2 staff already work together to monitor the consent decree on a consistent basis (weekly, and sometimes daily), and will continue to do so. At times, additional program staff have been assigned to supplement the core team. Oversight of the decree implementation has been conducted within the context of the enforcement tools of the CWA. The resources that EPA and the Department of Justice (DOJ) have expended over thirty years of judicial activity have provided improvement not only to the wastewater assets owned by the government of the VI, but also to the operation of those assets.

In 1985 (when the consent decree was entered), the government of the Virgin Islands operated ten sewage treatment plants that were in chronic non-compliance. At present, the USVI owns and/or contracts operation for eight sewage treatment plants (STP), which are operating up to standard. Out of the eight STPs, the court has removed from the CD five of the STPs that currently operate, which are in sustained compliance with the terms of the CD. Thus, only three plants remain under the CD, and the USVI has requested that they be removed from the CD as well, due to progress that has been made. In addition, DOJ and EPA began in 2010 an initiative to bring the VI collection system to the attention of the court. As a result of that effort, in April of 2013, the district court entered a Stipulated Order providing comprehensive injunctive relief to be implemented by the VI Waste Management Authority (VIWMA) via short, mid and long-term measures. Accordingly, this consent decree may be approaching its final stages, with a significant chance of termination during 2015.

Reporting to the public on an ongoing basis during the implementation of a consent decree is not an activity that we ordinarily engage in as part of litigation activities. This is partly because the DOJ (not EPA) generally has the lead role in judicially filed cases. Nevertheless, in this case, the public in the Virgin Islands has periodically received information from EPA staff and the DOJ attorney relating to the implementation of or status of the consent decree. There are instances where the public has requested information or data, and the EPA team has mobilized resources to

make those files or information available. We intend to continue to make such information available as needed, while the consent decree remains open, including posting major documents filed or issued by the court to EPA's website.

Completion is estimated for the 4th Quarter FY 2015.

OIG Response to 2 (NOTE: This is Recommendation 4 in the final report): Based upon discussions during our meeting on February 10, 2015, the region provided additional clarification on its response. The region said that the EPA will make information available on the Region 2 Internet Virgin Islands page while the consent decree and stipulated order remain in effect, including information about the status of major milestones under the consent decree and stipulated order. They said they will post this information on a quarterly basis, beginning in the third quarter of FY 2015. The region's proposed corrective actions meet the intent of the recommendation. The status of this recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 3

To correct problems with implementation of the CWA, we recommend that the Regional Administrator, EPA Region 2 oversee USVI prioritization of wastewater funds to ensure the funds address the highest priority wastewater system needs as quickly and comprehensively as possible.

Region 2 Proposed Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 agrees it has an oversight role in the USVI's use of wastewater funds, however, EPA lacks the authority to oversee USVI's prioritization of such funds. Region 2 awards wastewater treatment construction grants to the USVI for its Capital Improvement Grants Program pursuant to CWA Section 201(g)(1) and applicable 40 CFR Part 35, Subpart I regulations. EPA's role regarding the project priority ranking system is clearly set forth in 40 CFR 35.2015(e):

(e) *Regional Administrator review.* The State must submit its priority system, project priority list and revisions of the priority system or priority list to the Regional Administrator for review. The State must also submit each year, by August 31, a new priority list for use in the next fiscal year. (1) After submission and approval of the initial priority system and submission and acceptance of the project priority lists under paragraph (c) of this section, the State may revise its priority system and list as necessary. (2) The Regional Administrator shall review the State priority system and any revisions to insure that they are designed to obtain compliance with the criteria established in accordance with paragraphs (b) and (d) of this section and the enforceable requirements of the Act as defined in § 35.2005(b)(15). The Regional Administrator shall complete review of the priority system within 30 days of receipt of the system from the State and will notify the State in writing of approval or disapproval of the priority system, stating any reasons for disapproval. (3) The Regional Administrator will review the project priority list and any revisions to insure compliance with the State's approved priority system and the requirements of paragraph (c) of this section. The Regional Administrator will complete review of the project priority list within 30 days of receipt

from the State and will notify the State in writing of acceptance or rejection, stating the reasons for the rejection. Any project which is not contained on an accepted current priority list will not receive funding.

After the project priority list (PPL) is submitted by the Government of the Virgin Islands, EPA will review the PPL and any revisions to ensure compliance with the USVI's approved priority system and the PPL requirements of 40 CFR 35.2015 (c). The RA will complete review of the PPL within 30 days of receipt from the USVI and will notify the USVI in writing of acceptance or rejection, stating the reasons for the rejection. Any project which is not contained on an accepted current PPL will not receive funding. Region 2's presence will ensure the timely and proficient completion of the USVI approved process.

Completion is estimated for the 4th Quarter FY 2015.

OIG Response to 3 (NOTE: This is Recommendation 5 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 4

To correct problems with the implementation of the Safe Drinking Water Act (SDWA), we recommend that the Regional Administrator, EPA Region 2 immediately complete a data verification for the USVI drinking water program and make corrections as necessary to ensure that (a) DPNR correctly classifies public water systems' source water and (b) public water systems are adhering to the appropriate drinking water rules and monitoring schemes.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 will conduct a Data Verification of the USVI drinking water program. Completion is estimated for the 3rd Quarter FY 2015.

OIG Response to 4 (NOTE: This is recommendation no. 6 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 5

To correct problems with the implementation of the SDWA, we recommend that the Regional Administrator, EPA Region 2 complete an analysis of SDWA workplan items to ensure that DPNR self-certified information for the end-of-year reports is accurate and implementation milestones are set, monitored and met for the USVI operator certification program; and review a sample of sanitary surveys for compliance with EPA guidance providing the USVI with corrections and advice where the sample sanitary surveys do not comply.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. As part of the FY 2014 End of Year Review and the Data Verification to be conducted, Region 2 will complete an analysis of the year end reports to ensure that SDWA workplan items were completed and that the data is accurate and sanitary surveys are corrected, where necessary.

Completion is estimated for the 4th Quarter FY 2015.

OIG Response to 5 (NOTE: This is Recommendation 7 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 6

To address problems with the implementation of the Clean Air Act (CAA), we recommend that the Regional Administrator, EPA Region 2 make a determination as to whether the USVI is adequately administering or enforcing its Title V operating permit program and, if it is not, notify USVI of this determination in accordance with 40 CFR 70.10(b)(1).

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. The next Title V audit of the VI operating permits program is scheduled for the 4th quarter of FY 2015. Based on the outcome of that audit, Region 2 will make an appropriate decision with regard to the issuance of a Notice of Deficiency (NOD).

Please note that this action could lead to EPA taking back the Title V program within 18 months of the notification, which would result in creation of a large backlog because Region 2 does not have the resources, including staff and finances, to implement a Title V program in one or more of the states within its jurisdiction.

Completion is estimated for the 2nd Quarter FY 2016.

OIG Response to 6 (NOTE: This is Recommendation 2 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 7

To address problems with the implementation of the CAA, we recommend that the Regional Administrator, EPA Region 2 develop a listing of all delegations and other agreements for implementing air programs in the USVI to be posted on the Region 2 website.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 will post all Clean Air Act (CAA) delegations on the Region 2 website.

Completion is estimated for the 3rd Quarter FY 2015.

OIG Response to 7 (NOTE: This is Recommendation 8 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 8

To address problems with the implementation of the CAA, we recommend that the Regional Administrator, EPA Region 2 establish a timeframe for Region 2 to complete end-of-year grant performance evaluations.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. VIDPNR's CAA grant's terms and conditions currently state that the end-of-year report is due within 30 days after the expiration of the agreement. In order to ensure compliance with the end-of-year reporting requirements, Region 2 will discuss the status and/or requirements during the quarterly conference calls and/or meetings that are being conducted with DPNR staff. The following timeframe will be followed by Region 2 to complete end-of-year grant performance evaluations:

- Region 2 will initiate the review of the end-of-year report by November 1st (based on current grant condition that requires submittal of the report by October 30th).
- Region 2 will conduct conference calls and/or meetings with VIDPNR staff as needed, to discuss preliminary comments on the end-of-year report and/or seek clarification on the content of the report during Region 2's performance evaluation period.
- Region 2 will issue a letter to VIDPNR formalizing the regional review by December 30th (60 days after receipt of the end-of-year report).
- Region 2 will conduct an end-of-year meeting with VIDPNR by January 30th (30 days after submittal of Region 2's letter).

Completion is estimated for the 4th Quarter FY 2016.

OIG Response to 8 (NOTE: This is Recommendation 9 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 9

To address problems with the implementation of the CAA, we recommend that the Regional Administrator, EPA Region 2 during the next required 5-year network assessment of the USVI's ambient air quality monitoring network, determine whether the EPA should continue to provide grant funding to the USVI to operate the network as it is currently structured.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. The next scheduled five-year network assessment will take place in the spring of 2015, during which time we will work with VIDPNR to determine appropriate next steps. Based on the outcome of the assessment and associated discussions, Region 2 will make appropriate modifications to the grant funding.

Completion is estimated for the 4th Quarter FY 2015.

OIG Response to 9 (NOTE: This is Recommendation 3 in the final report): The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 10

To address problems with the implementation of the Underground Storage Tank (UST)/Leaking Underground Storage Tank (LUST) programs, we recommend that the Regional Administrator, EPA Region 2 implement management controls to verify compliance with EPA Act 2005 and EPA grant guideline provisions, including (a) verification of inspection of all sites in USVI's actual UST inventory every 3 years and (b) completion of required USVI operator training.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 funded, as an in-kind activity in VIDPNR's Cooperative Agreements, development and ongoing support for a comprehensive UST/LUST database. The database is now fully functional and is located in the "cloud", thereby allowing Region 2 real time access to all functions. Region 2 is currently reviewing facility UST inspection reports (including operator training verification), enforcement, and LUST site information in the database and communicating findings (e.g. incomplete data entry, omissions, etc.) to VIDPNR by email with follow-up discussion during conference calls. FY 2015 LUST-Prevention (UST) and LUST Corrective Action Cooperative Agreements will include a Term and Condition requiring that information in the database be complete and accurate. EPA has also instructed VIDPNR to submit results of a Quality Assurance (QA)/Quality Control (QC) review of its data, including verification that the UST inventory has been inspected every three years. This review is due from VIDPNR in the first quarter of 2015. Region 2 plans to perform an on-site review of VIDPNR's UST and LUST programs in the second quarter of 2015. Region 2 is recommending that VIDPNR include the operator training contractor cost in its FY 2015 LUST-Prevention Cooperative Agreement budget.

Completion is estimated for the 3rd Quarter FY 2015.

OIG Response to 10: Based upon discussions during our meeting on February 10, 2015, the region provided additional clarification on its response, and a revised completion date of December 31, 2015. The region stated that the Project Officer for DPNR UST/LUST Cooperative Agreements has independently confirmed that UST inspections are occurring within the 3-year EAct requirement, and has instituted bi-weekly reviews of the UST/LUST database to ensure that data are entered appropriately. The region's clarification further stated that during the planned on-site review of DPNR, completion of UST operator training will be addressed. With the region's clarification, the proposed corrective action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the corrective action. No further response to this recommendation is needed.

OIG Recommendation No. 11

To address problems with the implementation of the UST/LUST programs, we recommend that the Regional Administrator, EPA Region 2 implement management controls to monitor resolution of identified deficiencies and recommendations provided in the EPA's annual reviews.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 is monitoring activities in VIDPNR's UST and LUST programs via VIDPNR's UST/LUST database described above, monthly conference calls, and an annual on-site meeting planned for February or March, 2015.

Completion is estimated for the 2nd Quarter FY 2015.

OIG Response to 11: Based upon discussions during our meeting on February 10, 2015, the region provided additional clarification on its response, and a revised completion date of December 31, 2015. The region stated that during its onsite meeting with DPNR, the region will highlight any ongoing deficiencies in the UST/LUST program with DPNR's Director of the Division of Environmental Protection, and discuss a plan and schedule for addressing each deficiency. With the region's clarification, the proposed corrective action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the corrective action. No further response to this recommendation is needed.

OIG Recommendation No. 12

To address problems with the implementation of the UST/LUST programs, we recommend that the Regional Administrator, EPA Region 2 take actions necessary to resolve EPA Region 2-initiated LUST site enforcement actions at two facilities in USVI.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 issued in January 2015 Notices of Violation (NOVs) to address the facility owner/operator's failure to respond. Formal enforcement options will be evaluated if the owner/operator continues to be unresponsive.

Corrective action is completed.

OIG Response to 12: Based upon discussions during our meeting on February 10, 2015, the region provided additional clarification on its response, as well as a proposed milestone date for completion of September 30, 2016. The region stated it will evaluate and pursue appropriate federal enforcement options such as an additional Notice of Violation, expedited settlement agreement, or administrative penalty complaint; and that the selected option will depend on whether they receive a response to the current Notice of Violation, what information is provided, and the compliance status of the facility. With the region's clarification, the proposed corrective action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the corrective action. No further response to this recommendation is needed.

OIG Recommendation No. 13

To address problems with the implementation of the UST/LUST programs, we recommend that the Regional Administrator, EPA Region 2 establish an updated UST/LUST Memorandum of Agreement with the USVI that reflects changes and new provisions resulting from the EPAct 2005. The Memorandum of Agreement should also outline roles, responsibilities and expectations.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. In its December 14, 2011 response to OIG's Draft Report: *Controls Over State Underground Storage Tank Inspection Programs in Three EPA Regions are Generally Effective*, Project No. 2011-0019, EPA's Office of Solid Waste and Emergency Response (OSWER) responded to a similar finding as follows: "We generally agree with the recommendation to have EPA and states enter into MOAs reflective of changes from EPAct and addressing oversight of municipalities conducting inspections. We are currently in the process of updating the UST regulations and recognize that certain proposed changes to the existing regulations may cause states to amend different aspects of their programs. As a result, we will ensure this recommendation is implemented concurrently to the process outlined in the proposed regulations for states to reapply for SPA." EPA's Office of Underground Storage Tanks informs us that the expectation is that new MOAs will be in place within three years of the revised UST regulations' promulgation. The revised regulations are currently under review by OMB and are expected to be promulgated in 2015.

Assuming that the UST regulations are promulgated this fiscal year, the estimated completion of the updated MOA is the 4th Quarter FY 2018.

OIG Response to 13: The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 15

We recommend that the Regional Administrator, EPA Region 2 assist USVI with getting Local Emergency Planning Committees (LEPCs) fully operational.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 staff visited VIDPNR staff in December 2014 to assess completed efforts and to determine what the needs of the LEPCs are and in what way EPA can provide assistance to encourage activity within the LEPCs, which are currently inactive. Region 2 will use the Caribbean Regional Response Team meetings to engage and train the LEPCs.

Completion is estimated for the 4th Quarter FY 2016.

OIG Response to 15: The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 16

We recommend that the Regional Administrator, EPA Region 2 assist USVI in implementing procedures to identify EPCRA Tier II non-filers.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2 has initiated contractor assistance; work commenced in November 2014 to compile a list of inspection candidates. In addition, Region 2 will review the U.S. Department of Commerce shipping data reviewed by the OIG. Compliance assistance and enforcement is anticipated into FY 2016.

Completion is estimated for the 4th Quarter FY 2016.

OIG Response to 16: The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 17

We recommend that the Regional Administrator, EPA Region 2 review EPCRA and other data to ensure that all Risk Management Program-covered facilities are reporting to the EPA.

Region 2 Corrective Action and Time

Region 2 agrees with the recommendation. Region 2's current efforts are being conducted in conjunction with Recommendation No. 16. The focus will be identifying USVI wastewater

treatment plants storing more than a single one-ton cylinder of chlorine, identifying refrigeration facilities using ammonia, and any other industrial sector using RMP chemicals. If necessary, Region 2 will schedule Clean Air Act Section 112r inspections.

Completion is estimated for the 4th Quarter FY 2016.

OIG Response to 17: The proposed action meets the intent of our recommendation. This recommendation is resolved and open, pending completion of the planned corrective action. No further response to this recommendation is required.

OIG Recommendation No. 19

We recommend that the Regional Administrator, EPA Region 2 designate a person to coordinate and periodically report to the Regional Administrator on the status and implementation of USVI financial systems, as well as environmental programs conducted on the EPA's behalf, until such time that the Regional Administrator determines that sufficient progress has been made to discontinue periodic reporting.

Region 2 Corrective Action and Time

Region 2 has designated the Chief, Grants and Audit Management Branch (Grants Management Officer) to report on an ongoing basis to the Regional Administrator as indicated above.

Corrective action is completed.

OIG Response to 19: Action meeting the intent of our recommendation has been completed. This recommendation is resolved and closed. No further response to this recommendation is required.

Alternative Actions Proposed

OIG Recommendation No. 14

To ensure that the EPA's environmental programs are properly implemented in the USVI, we recommend that the Regional Administrator, EPA Region 2 develop a plan to ensure that the USVI's environmental programs meet minimum requirements in the event that the USVI does not or cannot adequately implement the programs.

Region 2 Corrective Action and Time

Region 2 agrees with the intent of the recommendation, but does not propose to implement the specific action recommended. Please note that Region 2's oversight of VIDPNR performance of each delegated program is conducted on an individual program basis. Region 2's actions to date

have been conducted with the aim of ensuring that USVI adequately implements each program. When that implementation falls short of goals, on a case by case basis, Region 2 takes action, whether by assistance and/or enforcement, with the aim to improve USVI's implementation of each program. Region 2 will enhance its oversight role to ensure that corrective actions are timely implemented.

OIG Response to 14: Based upon discussions during our meeting on February 10, 2015, the region provided additional clarification on its response. The region states that it has developed program-specific action plans, and uses the detailed description of the region's enhanced oversight and enforcement plans for the CWA National Pollutant Discharge Elimination System program as an example. With the region's clarification, the proposed corrective action meets the intent of our recommendation. This recommendation is resolved and closed. No further response to this recommendation is needed.

OIG Recommendation No. 18

We recommend that the Regional Administrator, EPA Region 2 develop a plan to address currently uncompleted tasks and activities, and develop a schedule for reprogramming grant funds to accomplish these tasks if USVI does not or cannot complete them. Follow Office of the Chief Financial Officer's Resource Management Directive System 2520-03 to determine whether over \$16.4 million in USVI assistance agreement funds could be put to better use.

Region 2 Corrective Action and Time

Region 2 is aggressively working with the VI Governor's Office, the VI Office of Management and Budget, the VI Department of Finance and VIDPNR, to develop corrective actions to reduce the large balance of unliquidated obligations on grants. It is important to note that the unliquidated obligations on VIDPNR's grants are largely associated with costs it already incurred but for which it has not yet been reimbursed. We are providing hands-on assistance to migrate VIDPNR's QuickBooks data to a "shadow system" of the VI Enterprise Resource Program (ERP) system to help resolve unreconciled costs for multiple years of payroll charges. We are also working with VIDPNR to develop appropriate allocation methodologies and methods to track and charge employee labor time appropriately. We anticipate that these actions will resolve many of the financial issues and eliminate the bulk of the unliquidated balances. When the unliquidated balances are reduced, Region 2 will develop appropriate follow-up actions. In addition, we will continue to work with VIDPNR over the coming months to expand its corrective action plan to address all other internal control and grants management issues identified through EPA reviews and Single Audit reports. The corrective action plan will define specific actions, time frames and responsible VIDPNR personnel.

Completion is estimated for the 4th Quarter FY 2018.

OIG Response to 18: The region’s proposed corrective actions above did not state whether any amount will be unliquidated or reprogrammed, and the region did not state its plans for addressing the uncompleted grant commitments. Based on discussions during our meeting on February 10, 2015, the region provided additional clarifications on its response. The region stated that the unliquidated obligations are largely associated with costs the USVI already incurred; USVI has not been reimbursed for these costs, due to accounting issues. The amount of unliquidated obligations on DPNR’s open agreements is presently more than \$37 million, which is associated with both expired and active agreements. This figure is fluid and will fluctuate as the region makes payments, resolves disputes and bills for collection, and awards new funds to the USVI. The region is continuing to work with the DPNR to address the accounting issues and reduce the payment backlog.

The region said DPNR currently has several years of unpaid payroll costs that must be resolved through DPNR’s current efforts to craft and populate a “shadow accounting system” that will align payroll costs with the hours shown on employee timesheets. The effort is huge, requiring reconciliations for each employee for each pay period in question. The goal is for DPNR to be able to claim, with proper supporting documentation, personnel costs for past fiscal years on all of its older grants, as the region continues to pay other types of eligible costs under these grants. The region also noted that awards made after the EPA’s May 2014 formal high risk designation of DPNR will carry balances until such time DPNR has satisfactorily corrected its accounting issues and implemented appropriate procedures for charging non-working hours and shared services costs to the agreements.

Both Region 2 and the Las Vegas Finance Center monitor the status of unliquidated balances on all assistance agreements closely. As the region receives payment requests and final Federal Financial Reports, it is liquidating balances through payments and deobligating unused funds identified in the final Federal Financial Reports. Region 2 senior leadership will decide on the use of these deobligated funds for other eligible projects after the funds are recovered through the grant closeout process.

With respect to unfulfilled workplan commitments the region noted that the USVI’s financial issues have created severe restrictions on cash flow within DPNR, which has had a negative effect on the number of commitments completed. The region plans to develop a programmatic corrective action plan after the financial situation improves in DPNR and it has sufficient funds available to fully implement its environmental programs.

With the region’s concurrence, we revised the recommendation to reflect the current status of the unliquidated obligations. The region provided, and we concur with, the milestone dates for resolution. The region’s corrective action plan meets the intent of our recommendation and this recommendation is resolved and open, pending completion of the correction action. No further response to this recommendation is required.

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