



# At a Glance

## Why We Did This Review

In an Office of Inspector General report issued on November 21, 2011, we addressed a congressional request on Clean Water Act (CWA) Section 404 permit applications. While reviewing files in U.S. Environmental Protection Agency (EPA) Regions 3, 4, and 5, we encountered recordkeeping issues that warranted this review.

## Background

The U.S. Army Corps of Engineers issues permits for surface coal mining under CWA Section 404 and is the official agency of record. EPA reviews permit notifications for water quality and provides the Corps with comment letters on some permit notifications. EPA also attends meetings and site visits with Corps project managers and applicants. The Federal Records Act states that “records” include all documentary materials in connection with the transaction of public business.

**For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.**

**The full report is at:**  
[www.epa.gov/oig/reports/2012/20120202-12-P-0249.pdf](http://www.epa.gov/oig/reports/2012/20120202-12-P-0249.pdf)

## ***EPA Should Strengthen Records Management on Clean Water Act Section 404 Permit Notification Reviews for Surface Coal Mining***

### What We Found

EPA staff in Regions 3, 4, and 5 should better document their records of review activities on CWA Section 404 surface mining permit notifications. EPA regional staff believe that Agency comment letters are the only official records that they should maintain related to notification reviews. Because of the limited documentation, information we needed to complete our congressional review was not available, and we could not discern whether EPA had reviewed some notifications. Without knowledge of permit status and the resolution of comments, EPA may not be able to determine whether its reviews have desired environmental impacts. Also, without properly maintaining evidence of CWA Section 404 permit notification reviews, EPA risks being out of compliance with the Federal Records Act.

EPA has recently taken actions that should improve documentation of the Agency’s CWA Section 404 activities nationwide—not just those related to surface mining activities in Regions 3, 4, and 5. EPA’s Office of Water developed the Data on Aquatic Resources Tracking for Effective Regulation (DARTER) system to alert staff of permit notifications and to track information on the Agency’s CWA Section 404 regulatory activities. However, EPA currently limits DARTER implementation to standard permits only, and the use of DARTER is not mandatory. In addition, Region 5 developed the Coal Tracker system to keep track of mining permit notifications and to help complete its reviews.

### What We Recommend

We recommend that the Office of Water coordinate with headquarters and regions to identify DARTER as an official recordkeeping system and develop a full implementation plan, identify as official records certain basic information entered in DARTER, and indicate when DARTER will incorporate additional permit actions. We also recommend that the Office of Water reconcile any data duplication between DARTER and Region 5’s Coal Tracker system. Lastly, we recommend that the Office of Water clarify the requirements of certain EPA records schedules. The Office of Water concurred with our recommendations and described planned actions to address our recommendations. Our recommendations remain unresolved pending the Office of Water’s corrective action plan with milestone dates.