



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Special Report

Congressionally Requested Report on Office of Inspector General Unimplemented Recommendations (Revised)

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Abbreviations

CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
CSO	Combined Sewer Overflow
EPA	U.S. Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FY	Fiscal Year
GAO	Government Accountability Office
HVAC	Heating, Ventilation, and Air Conditioning
IGOR	Inspector General Operations and Reporting
MATS	Management Audit Tracking System
NAPCA	National Asian Pacific Center on Aging
OAR	Office of Air and Radiation
OARM	Office of Administration and Resources Management
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OEI	Office of Environmental Information
OIG	Office of Inspector General
OPEI	Office of Policy, Economics, and Innovation
OSHA	Occupational Safety and Health Administration
OSWER	Office of Solid Waste and Emergency Response
OW	Office of Water
POTW	Publicly Owned Treatment Works
RMDS	Resources Management Directive System
SRF	State Revolving Fund
TMDL	Total Maximum Daily Load
WTC	World Trade Center

Status update: Based on information provided by the Agency, the summary and listing of OIG Report No. 2007-P-00021, Recommendation 3-3, has been removed from this report.

Foreword

On December 7, 2007, the House Committee on Oversight and Government Reform sent a letter to the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The letter requested a list of recommendations made by the EPA OIG from January 1, 2001, to the present that have not been implemented by Agency officials or Congress. The letter also requested summary information about each report with such unimplemented recommendation(s), and specific information on each of those recommendations. The OIG provided the requested information to the Oversight Committee on February 29, 2008. This report is comprised of the information provided to the Committee.

Because our work consisted of gathering the specific elements of information requested by the Committee within a limited time period, we did not conduct our work in accordance with all generally accepted government auditing standards issued by the Comptroller General of the United States. Specifically, we did not evaluate management controls, determine compliance with laws and regulations, or develop findings and recommendations, because these issues were beyond the scope and objectives of the request. Due to time constraints, we did not thoroughly assess the validity and reliability of data obtained from the Agency's Management Audit Tracking System (MATS), which is used by EPA to track audit followup information. Although MATS was our primary source for identifying unimplemented recommendations, we did perform additional steps to search for unimplemented recommendations that may not have been identified in MATS.

This report includes significant unimplemented recommendations in OIG reports issued from January 1, 2001, to June 1, 2007. In accordance with the scope agreed upon with the Committee's staff, we excluded recommendations from reports related to external contracts, grantees, single audits, and those with future milestone dates for action. We limited the recommendations to those we believe are significant because they could have a material impact on the economy, efficiency, effectiveness, or integrity of EPA programs and operations. For this purpose, we define the following terms:

- **Economy:** Opportunity to save, prevent loss, or recover at least \$500,000 in monetary costs or value.
- **Efficiency:** Improvement in the process, capacity, accessibility, or delivery of program objectives and the elimination of unnecessary or unproductive actions or expenses.
- **Effectiveness:** Improvement in the quality of, or reduction in the risk to, public health and the environment.
- **Integrity:** Improvement in operational accountability, enforcement of and compliance with laws and regulations, and security of resources for public confidence.

Reports that have attracted congressional interest were reviewed for significant unimplemented recommendations that might not have been identified in MATS. As a result, we have included recommendations from our 2003 report, *EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement*. Although EPA has not fully determined the status of actions on all recommendations from this report, we have included specific OIG recommendations that the Government Accountability Office recently reported have not been implemented. We are working to determine EPA's progress on implementing the full range of recommendations from this important OIG report.

Further details on scope and methodology for the review of unimplemented recommendations can be found in Appendix A. Our final list includes 25 reports with a total of 65 unimplemented recommendations; the list of reports is in Appendix B.

Recognizing the importance of accountability for action on OIG recommendations, the OIG has recently undertaken a project, consistent with the concept of the U.S. Department of Health and Human Services OIG's *Compendium of Unimplemented Office of Inspector General Recommendations* (formerly issued as the Orange and Red Books), to verify and report on the status of Agency actions taken in response to OIG recommendations. We hope to begin preparing inventory reports to EPA senior management this fiscal year on the status of recommendations from selected OIG reports. Also, during our current review of unimplemented recommendations, and other recent followup-related work within the OIG, we identified some issues in the followup process used by the OIG and EPA, which we plan to address in subsequent reviews.

We would like to recognize the EPA Chief Financial Officer, MATS System Administrator, Agency Audit Followup Coordinators, and EPA program staff members for their cooperation and assistance in our work.



Bill A. Roderick
Deputy Inspector General

Table of Contents

Unimplemented Recommendations	1
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Appendices

A Scope and Methodology	53
B List of Reports with Unimplemented Recommendations.....	56
C Distribution	57

Unimplemented Recommendations

Report Title: EPA Can Improve Its Oversight of Audit Followup
Report No.: 2007-P-00025
Date Issued: 05/24/2007

Summary of Report and Objectives

Audit followup is essential to good management and is a shared responsibility of agency managers and audit organizations. The U.S. Environmental Protection Agency (EPA) has audit followup procedures and designated officials who manage the process. We performed this review to determine (1) the status of corrective actions responding to Office of Inspector General (OIG) report recommendations for selected water reports, and (2) how complete and up-to-date is the Management Auditing Tracking System (MATS) report information for selected OIG water reports.

Key Findings in Report

EPA is generally undertaking actions for the nine water-related reports in the review – seven directed to the Office of Water (OW) and two to the Office of Enforcement and Compliance Assurance (OECA). However, several actions in response to individual recommendations were delayed past milestone dates agreed to by the OIG. Both program offices and the Office of the Chief Financial Officer (OCFO), in its oversight role, can do more to monitor the audit followup process and ensure that timely and appropriate corrective actions are taking place. OCFO's annual audit followup reporting to Congress did not present the required information on specific audit recommendations or reasons for delays in taking corrective actions. The Agency's audit tracking system, MATS, was also incomplete and contained mistakes.

Unimplemented Recommendations

Recommendation 1: We recommend that the Assistant Administrator for OECA require Audit Management Officials and Audit Followup Coordinators to implement EPA Order 2750, and biannually review audit management information, including official files, to ensure completeness and accuracy.

Status: Original planned completion dates for OECA were 08/4/07 and 11/24/2007. The recommendation was partially completed. OECA agreed to: (1) conduct an assessment of the current system to ensure accuracy and documentation (completed August 2007), and (2) develop a standard operating procedure to fully address Audit Followup Coordinator responsibility to perform biannual reviews and ensure a file is complete and accurate (due 11/24/2007).

Recommendation 2: We recommend that the Assistant Administrator for OECA obtain OIG approval for any significant changes to corrective action plans involving the deferral of milestones dates for 6 or more months.

Status: OECA has not provided supplemental information in response to the OIG's determination that the corrective action proposed 08/22/07 was not fully responsive; agreement has not been reached with OIG on the final corrective action plan for this recommendation.

Recommendation 3: We recommend that the Assistant Administrator for OECA require Audit Management Officials and Audit Followup Coordinators to certify in MATS the date of the certification letter and signing official's name and title, before the Final Action Date is entered and the report moved to inactive status.

Status: Original planned completion dates for OECA were 09/15/07 and 11/24/2007. The recommendation was partially completed. OECA agreed to: (1) verify documentation for current inactive reports within 90 days (complete), and (2) work to improve overall monitoring of the audit process and address all aspects of audit management with the implementation of the standard operating procedure (due 11/24/07).

Description of Non-Monetary Benefits

This report advised Agency officials of steps that EPA can take to improve audit followup in order to improve accountability for actions leading to environmental change. These steps will also help to improve the efficiency and effectiveness of EPA programs and operations.

Report Title: Environmental Justice Concerns and Communication Problems
Complicated Cleaning Up Ringwood Mines/Landfill Site
Report No.: 2007-P-00016
Date Issued: 04/02/2007

Summary of Report and Objectives

Three members of the New Jersey congressional delegation requested that the OIG “conduct an investigation into the history and continued inadequate characterization and remediation of the Ringwood Mines/Landfill Superfund site.” This report addresses whether environmental injustice exists and if EPA employed effective community relations.

Key Findings in Report

Problems with communications and relationships impeded effective cooperation between EPA and residents. Although Region 2 has increased its community relations efforts at the site, the new community relations plan being prepared must address these impediments.

Unimplemented Recommendation

Recommendation 3-1: The OIG recommended that the Regional Administrator, Region 2, direct his staff to prepare and implement a new community involvement plan for the Ringwood site.

Status: The planned completion date was 10/31/07. Region 2's new community involvement plan has been drafted and issued to the Ringwood community for comment, with a request to complete comments 02/15/08. The final community involvement plan was expected to be completed by 03/31/08.

Description of Non-Monetary Benefits

By implementing a new community involvement plan for the Ringwood site, EPA has the potential to dramatically improve relations with the people of this New Jersey community. The community involvement plan should identify the community's issues, needs, and concerns, and identify specific activities, outreach products, or programs EPA will use to address the community's concerns. Communication strategies and techniques assist in the community being informed about, and involved in, site activities. In addition, personal interactions contribute to the development of trust and cooperative working relationships.

Report Title: Performance Track Could Improve Program Design and Management to Ensure Value
Report No.: 2007-P-00013
Date Issued: 03/29/2007

Summary of Report and Objectives

We initiated this review to evaluate how the EPA's National Environmental Performance Track achieves EPA goals. The OIG specifically sought to determine how Performance Track contributes to achieving environmental goals, how well it recognizes and encourages environmental leadership, and how the program tracks performance.

Key Findings in Report

We found that Performance Track did not have clear plans that connected activities with its goals, and did not have performance measures that show if it achieves anticipated results. The program did not meet the associated EPA goal because members did not make sufficient progress toward their commitments. These implementation challenges detracted from EPA's anticipated results (only 2 of 30 sampled Performance Track members met all of their environmental improvement commitments). In addition, members did not have access to some program benefits. Although most members showed leadership and environmental progress with better than average toxic release records, the presence of underperforming facilities in this leadership program reduces the integrity and value of the brand.

Unimplemented Recommendations

Recommendation 3-2: We recommend that the Associate Administrator for the Office of Policy, Economics, and Innovation (OPEI) clearly communicate the defined program objective to EPA, Performance Track program staff, the public, nongovernmental organizations, and the regulated community, ensuring that each group understands its purpose in helping achieve the program objective.

Status: EPA is in the process of modifying its public materials on Performance Track to ensure that there is more consistency in how key messages are presented. Since the OIG report was issued, the Agency has developed brand guidelines that include key messages about the objectives of the program. These will be finalized and printed in September 2007 and posted on the Website. EPA is in the process of modifying its public materials on Performance Track, including language on the Website and major brochures and speeches. The program objectives will be clarified in these materials and be consistent with the brand guidelines. This recommendation was planned for completion by October 2007. OPEI has made several changes in the Performance Track Program and the remainder of the changes will be incorporated in their Progress Report in May 2008. The recommendation currently has a new completion date of December 2008.

Recommendation 3-3: We recommend that the Associate Administrator for OPEI refine, prioritize, and periodically revisit a program logic model or business model for demonstrating how Performance Track will achieve its goals.

Status: EPA most recently updated the Performance Track logic model as part of a broader process for preparing an overall logic model for the National Center for Environmental Innovation. This has allowed EPA to more explicitly and strategically integrate the program with innovation activities. The Performance Track logic model will be reviewed and, if necessary, revised annually. The next review will be at the start of FY 2008, when the program prepares its annual operating plan. This recommendation was planned for completion by October 2007. OPEI has made several changes in the Performance Track Program and the remainder of the changes will be incorporated in their Progress Report in May 2008. The recommendation currently has a new report date of December 2008.

Recommendation 3-4: We recommend that the Associate Administrator for OPEI design a comprehensive, strategic program plan to connect activities with goals and to encourage staff and management to focus on program goals and member commitments.

Status: EPA has completed a work plan that links program activities more clearly with goals. The next step will be to develop additional activities that link member commitments and results with goals and do a program SWOT (strengths, weaknesses, opportunities, and threats) analysis. These materials then were to be organized into a comprehensive strategic plan by the end of 2007. This recommendation was planned for completion by December 2007. OPEI has made several changes in the Performance Track Program and the remainder of the changes will be incorporated in their Progress Report in May 2008. The recommendation currently has a new report date of December 2008.

Description of Non-Monetary Benefits

This report, along with the recommendations made by the OIG, will assist EPA in using this data to track members' progress, define top performance, and establish and modify criteria and performance measures for the National Environmental Performance Track Program.

Report Title: EPA's Allowing States to Use Bonds to Meet Revolving Fund Match Requirements Reduces Funds Available for Water Projects
Report No.: 2007-P-00012
Date Issued: 03/29/2007

Summary of Report and Objectives

Congress created the State revolving funds (SRF) to provide States with a continuous source of funding for needed water projects. The laws require States to contribute 20 percent of the Federal capitalization grant. In 2002, EPA identified that a significant funding gap exists between projected clean water and drinking water infrastructure needs and current levels of Federal, State, and local spending. We conducted this review to determine how Agency policies have impacted SRFs and the related water infrastructure gap. We focused on how EPA policies allowing States to use bonds repaid from SRF interest to meet match requirements have affected funds available.

Key Findings in Report

EPA regulations and policies allowing States to use bonds repaid from SRF interest to SRF match requirements are resulting in fewer dollars being available for water projects. When Congress created the Clean Water and Drinking Water SRFs, it intended that they would be ongoing sources of funding for water projects. Current practices have resulted in an estimated \$937 million less funds available for loans since the inception of the SRF programs.

Unimplemented Recommendation

Recommendation 1: We recommend that the Assistant Administrator for OW revise regulations and policy on State match options to no longer allow States to use bonds repaid from the SRF to meet State match requirements.

Status: OW did not agree with the recommendation. As of 08/18/07, OW has been waiting for OIG's formal decision as to whether this matter will be referred to the Audit Resolution Board to be resolved.

Estimate of Monetary Benefits

Monetary benefits could be hundreds of millions of dollars but have not been specifically determined through our work.

Description of Non-Monetary Benefits

Allowing States to use bonds to meet SRF match requirements reduces funds available for water projects, thus further increasing the funding gap identified by the Agency.

Report Title: Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist
Report No.: 2006-P-00038
Date Issued: 09/27/2006

Summary of Report and Objectives

EPA had existing emergency response contracts in place at the time Hurricane Katrina hit, and used these contracts extensively to support its response efforts. The response efforts involved sending numerous personnel to the area and purchasing equipment and services to support them. We sought to determine whether EPA, in responding to Hurricane Katrina, adequately designed and effectively implemented controls for expenditures, paid a reasonable price for products and services obtained, and adequately safeguarded purchased assets.

Key Findings in Report

EPA's existing contracts awarded for responding to natural disasters worked as intended and allowed EPA to quickly respond to Hurricane Katrina. Almost immediately after Katrina, EPA officials were in affected areas, assessing damage and formulating action plans. As a result, EPA quickly began protecting human health and the environment. Further, existing contracts limited cost risks, because EPA did not have to quickly award a large number of noncompetitive sole source contracts. EPA still needed to award some noncompetitive contracts, valued at about \$9 million, during its Katrina response efforts, and we noted areas where EPA can make improvements for future disasters. EPA needed to improve its review of contractor invoices to help prevent payment of duplicate, unallowable, and/or unreasonable costs. At our urging, EPA placed greater emphasis on reviewing invoices, and its prompt actions eliminated our concerns in this area. EPA needs to improve plans for property management during catastrophic emergencies. Almost 4 months after Katrina, EPA had in most cases not properly placed decals on equipment and/or recorded equipment in its property system. While this understandably happened because of the emergency situation, EPA should attempt to improve controls for handling future disasters.

Unimplemented Recommendations

Recommendation 2-1: Recognizing that the Assistant Administrators for OSWER and OARM have begun a process to improve EPA's response efforts for future catastrophic events based on its Katrina experience, we recommend that the Assistant Administrators develop a strategy/plan to deploy a sufficient number of contracting officers and other support personnel to an emergency response area.

Status: EPA concurred with the recommendation. The recommendation was partially completed. Original planned completion date was 12/31/06. EPA extended the date for completion of guidance to May 2008. According to information in MATS, EPA has developed and provided initial training for a Response Support Corps list of EPA Headquarters and regional personnel willing and prepared to deploy to future incidents of national significance. OSWER reported that Response Support Corps guidance has been

developed and will soon be distributed as an Interim Final. It will then be submitted to be made into an EPA Order by May 2008.

Recommendation 4-1 (Bullet 4): Recognizing that the Assistant Administrator for OSWER has begun a process to improve EPA's response efforts for future catastrophic events based on its Katrina experience, and that the Assistant Administrator for OARM has initiated a similar process for safeguarding equipment, we recommend that the Assistant Administrators for OSWER and OARM consider issuing purchase cards to responders for purchases during a specific disaster.

Status: EPA suggested an alternative to the recommendation. The alternative, to develop an electronic log, was accepted by the OIG. The recommendation was partially completed. Original planned completion date was FY 2007. EPA extended the date for completion to 6/30/08. According to information in MATS, EPA has contracted to obtain an electronic log capability to better track transactions in a specific disaster. The electronic log is developed and is currently being tested in the second quarter of FY 2008 with a projected completion date of 6/30/08.

Recommendation 4-1 (Bullet 5): Recognizing that the Assistant Administrator for OSWER has begun a process to improve EPA's response efforts for future catastrophic events based on its Katrina experience, and that the Assistant Administrator for OARM has initiated a similar process for safeguarding equipment, we recommend that the Assistant Administrators for OSWER and OARM consider establishing a national custodial area in the Fixed Assets System for future large-scale national disasters so that all equipment purchases can be recorded more quickly and in a central location.

Status: EPA concurred with the recommendation. The recommendation was partially completed. Original planned completion date was 12/31/06. EPA extended the date for completion to December 2008. According to information in MATS, the final version of the Incident Management Handbook covers this issue by outlining the roles of various key positions. In addition, OSWER stated that the development of this process was completed in January 2007 when the equipment tracking application was designed and moved into production. The Agency has been reviewing and modifying the design of the system as it has been going through the implementation phase since initial deployment, as well as populating the equipment data incrementally (by region and warehouse). The system is expected to be fully developed, implemented, and in full use by December 2008.

Description of Non-Monetary Benefits

Recommendation 2-1: A sufficient number of contracting officers and other support personnel are needed in an emergency response area. In particular, contracting officers are needed for initiating new procurements, contractual negotiations, and managing ongoing contracts.

Recommendation 4-1 (Bullet 4): There is a need to segregate and track purchases made in response to a specific disaster situation.

Recommendation 4-1 (Bullet 5): Locating and recording equipment after the fact with documentation scattered across a large response area should be avoided if possible. It proved to be extremely labor-intensive for EPA personnel to record equipment purchases after the equipment was pressed into use.

Report Title: Promising Techniques Identified to Improve Drinking Water Laboratory Integrity and Reduce Public Health Risks
Report No.: 2006-P-00036
Date Issued: 09/21/2006

Summary of Report and Objectives

The Safe Drinking Water Act of 1974 provides that a laboratory must obtain approval by EPA or a State before analyzing public drinking water samples for compliance with health-based standards. We conducted this review to identify vulnerabilities in the drinking water sample analysis process and promising techniques to improve laboratory integrity.

Key Findings in Report

Within the drinking water sample analysis process we identified hundreds of vulnerabilities that are not addressed by EPA's process. Many of these vulnerabilities were identified by the OIG in 1999 and the Agency's own review in 2002, with no action by the Agency. Moreover, States that have implemented new techniques to detect laboratory integrity problems have found additional deficiencies, inappropriate procedures, and even cases of fraud. Their findings and those of our own investigators show integrity can be, and has been, compromised. Through our work with States, laboratory organizations, and other Federal agencies, we identified promising techniques to help improve oversight and protect against inappropriate procedures and fraud in the drinking water analysis process.

Unimplemented Recommendations

Recommendation 2: We recommend that the Assistant Administrator for OW ensure that all individuals within the Office of Groundwater and Drinking Water, regions, and States who have oversight responsibility for laboratories analyzing drinking water samples are educated and proficient in the proper procedures to follow should a laboratory be suspected of inappropriate or fraudulent procedures.

Status: Original planned completion date for OW was September 2007. All the items were addressed in an email to the Regional Certification Officers on 01/26/07 and were included in materials distributed by participants in the September 2007 Certification Officer Training. OW anticipates reaching closure on the recommendation by 05/01/08.

Recommendation 3: We recommend that the Assistant Administrator for OW create and use a training course, exam, and standard methods for the certification of laboratories analyzing drinking water samples for radiochemical contaminants.

Status: Original planned completion date for OW was 12/31/07. OW collaborated with Pennsylvania and Arizona for radiochemistry training in December 2006 and with the Office of Radiation and Indoor Air in 2007. OW is in the process of developing an addendum to the *Manual for the Certification of Laboratories Analyzing Drinking Water*. OW anticipates reaching closure on the recommendation by 05/01/08.

Recommendation 4: We recommend that the Assistant Administrator for OW encourage certification officers to use the following techniques already developed by other groups in laboratory oversight. In addition, encourage certified or accredited laboratories to engage in techniques b and c: (a) Enhance On-Site and Followup Audits to Include Techniques to Identify and Deter Inappropriate Procedures and Fraud, (b) Use Data Validation and Verification Techniques, (c) Use Analyst Notation and Sign-off on Manual Integration Changes to Data, (d) Review Raw Electronic Data and Use Electronic Data Analysis/Tape Audits, (e) Review Inventory of Laboratory Supplies, (f) Include Double Blind Proficiency Testing Samples Reform (or a combination of Double Blind and Split Sample Analysis), and (g) Conduct Data Accuracy Reviews.

Status: Original planned completion date for OW was September 2007. OW is in the process of developing an addendum to the *Manual for the Certification of Laboratories Analyzing Drinking Water*. OW anticipates reaching closure on the recommendation by 05/01/08.

Recommendation 6: We recommend that the Assistant Administrator for OW set up a workgroup – including representatives from regions, States, and laboratories – to review the sample collection requirements and seek opportunities to minimize vulnerabilities.

Status: Original planned completion date for OW was 12/31/07. OW included targeted questions in the 2007 Annual Regional Laboratory Certification Program Questionnaire regarding techniques to detect fraud. The results are being compiled. OW anticipates reaching closure on the recommendation by 05/01/08.

Recommendation 7: We recommend that the Assistant Administrator for OW meet with Agency contract officers and the OPEI to determine if appropriate procurement guidance for EPA, States, and public water systems (including language similar to what is under development by Department of Defense) specifying a list of prohibited practices and possible incentives for laboratories or analysts that meet higher integrity standards can be developed to offset economic pressures to cut corners.

Status: Original planned completion date for OW was 12/31/07. Representatives of OW, OARM, and Department of Defense met in July 2007. OW and OARM are reviewing the draft Department of Defense procurement policy for possible application to the drinking water program. OW anticipates reaching closure on the recommendation by 05/01/08.

Recommendation 9: We recommend that the Assistant Administrator for the Office of Environmental Information (OEI) create a mechanism to identify data in Agency databases originating from laboratories under investigation, indictment, and/or conviction.

Status: OEI did not agree to a completion date for this recommendation. Although the report was issued in September 2006, OEI and OIG have not agreed on the corrective actions needed. OEI submitted new draft language on 02/06/08 to address the two recommendations from the OIG. OEI anticipates reaching closure on the open status of the recommendations from the audit with policy by the end of the fiscal year (09/30/08).

Recommendation 10: We recommend that the Assistant Administrator for OEI develop an Agency-wide policy on how data originating from laboratories under investigation, indictment, and/or conviction will be handled.

Status: OEI did not agree to a completion date for this recommendation. Although the report was issued in September 2006, OEI and OIG have not agreed on the corrective actions needed. OEI submitted new draft language on 02/06/08, to address the two recommendations from the OIG. OEI anticipates reaching closure on the open status of the recommendations from the audit with policy by the end of the fiscal year (09/30/08).

Description of Non-Monetary Benefits

Laboratory integrity is crucial to EPA's strategy for providing the public with safe drinking water. This report advised Agency officials of steps that EPA can take to improve drinking water laboratory integrity and reduce public health risks.

Report Title: EPA Could Improve Its Redistribution of Superfund Payments to Specific Sites
Report No.: 2006-P-00027
Date Issued: 07/31/2006

Summary of Report and Objectives

EPA has the authority through the Superfund program to respond directly to releases of hazardous substances and seek recovery of its costs on a site specific basis from the responsible parties. EPA obligates costs not readily identifiable to a site to the general site identifier “WQ,” and upon payment redistributes the costs to specific sites. This review examined a potential Superfund cost recovery issue noted during our audit of the Agency’s FY 2003 financial statements. As of August 2003, EPA had recorded payments of \$97 million for Superfund response costs to a general site identifier “WQ” that should have been redistributed to specific sites or other general site identifiers to improve EPA’s cost recovery.

Key Findings in Report

EPA did not make timely redistributions of Superfund cooperative agreement, interagency agreement, and small purchase payments from the general site identifier “WQ” to the specific Superfund sites or other general site identifiers. The finance offices that we reviewed recorded the payments to “WQ” instead of redistributing them to the appropriate general or site-specific identifiers, as required. As of January 2006, \$39 million recorded in “WQ” for those funding vehicles and undistributed for periods ranging from 2 months to 10 years may not be considered in settlement negotiations and oversight billings. Consequently, these funds may not be recovered from responsible parties and be available for future site cleanup activities. EPA did not timely redistribute the “WQ” costs because it did not establish “WQ” procedures, consistently monitor the “WQ” accounts, and provide “WQ” training or require cooperative agreement recipients to provide the site-specific cost detail needed. Subsequent to our audit, EPA indicated the undistributed “WQ” was reduced to \$13 million as of 05/12/06.

Unimplemented Recommendations

Recommendation 1: We recommend that OCFO, OSWER, and OARM, as agreed, develop written procedures for implementing EPA’s Superfund site-specific accounting policies related to the general site identifier “WQ,” including a timeliness standard for redistributions for each funding vehicle, an explanation of project officers’ responsibilities, monitoring procedures, and “WQ” cost reviews at the time of closeout. Develop a standard format for project officers of interagency agreements to transmit cost redistribution information to the Cincinnati Finance Center.

Status: The recommendation was planned for completion by 10/30/06. OCFO estimates that revised Chapter 4 (Direct Site Charging) of the Resources Management Directive System (RMDS) 2550D will be in draft by the second quarter of FY 2008. On 01/07/08, the OIG began a followup audit on the Agency’s implementation of corrective actions taken in response to report 2006-P-00027. The OIG followup report is planned to be

issued in final in June 2008. Preliminary findings indicate corrective actions have not been completely implemented for report 2006-P-00027. Reasons for delay will be described in the OIG followup report.

Recommendation 2: We recommend that OCFO, OSWER, and OARM evaluate the need for training on “WQ” redistribution procedures for each type of funding vehicle and provide the appropriate level of training to the responsible personnel.

Status: The recommendation was planned for completion by 11/30/06. The Agency has not explained the reasons for delay. On 01/07/08, the OIG began a followup audit on the Agency’s implementation of corrective actions taken in response to report 2006-P-00027. The OIG followup report is planned to be issued in final in June 2008. Preliminary findings indicate corrective actions have not been completely implemented for report 2006-P-00027. Reasons for delay will be described in the OIG followup report.

Recommendation 3: We recommend that OCFO, OSWER, and OARM continue working with the regions to redistribute the historical costs remaining in the “WQ” site identifier.

Status: The planned completion date for the recommendation was not specified. On 01/07/08, the OIG began a followup audit on the Agency’s implementation of corrective actions taken in response to report 2006-P-00027. Although the Agency reduced the \$39 million in undistributed payments as of 06/12/06 to \$13 million, preliminary results from the OIG followup audit indicate the interagency agreement payments have not been redistributed. As of 12/31/07, interagency agreements totaled approximately \$4.8 million. The OIG followup report is planned to be issued in final in June 2008. Reasons for delay will be described in the OIG followup report.

Recommendation 4: We recommend that OSWER and OARM complete ongoing efforts to change the cooperative agreement conditions to require the recipient to provide site-specific cost details within 24 hours of drawing down funds, and enforce those conditions.

Status: The recommendation was planned for completion by 10/30/06. The Office of Financial Management estimates that revised Chapter 4 (Direct Site Charging) of RMDS 2550D will be in draft by the second quarter of FY 2008. Reasons for delay were not described by the Agency. On 01/07/08, the OIG began a followup audit on the Agency’s implementation of corrective actions taken in response to report 2006-P-00027. Preliminary results indicate that corrective actions have not been completely implemented for report 2006-P-00027. The OIG followup report is planned to be issued in final in June 2008. Reasons for delay will be described in the OIG followup report.

Recommendation 5: We recommend that OSWER and OARM amend the closeout process for cooperative agreements to include procedures to verify that “WQ” costs are redistributed.

Status: The recommendation was planned for completion by 10/30/06 and was extended by EPA to 7/31/07. EPA is in the process of amending the latest draft of RMDS 2550D Chapter 9 to include language that would require all “WQ” payments to be redistributed

at the time of Grants closeout. As of 10/16/07, the Chapter 9 policy document was ready for the final policy review process. In addition, the Office of Financial Management estimates that revised Chapter 4 (Direct Site Charging) of RMDS 2550D will be in draft by the second quarter of FY 2008. Reasons for delay were not described by the Agency. On 01/07/08, the OIG began a followup audit on the Agency's implementation of corrective actions taken in response to report 2006-P-00027. Preliminary results indicate that corrective actions have not been completely implemented for report 2006-P-00027. The OIG followup report is planned to be issued in final in June 2008. Reasons for delay will be described in the OIG followup report.

Recommendation 6: We recommend that OSWER and OARM promote accountability for "WQ" redistributions among project officers and finance office personnel.

Status: The recommendation was planned for completion by 11/30/06. The Office of Financial Management estimates that revised Chapter 4 (Direct Site Charging) of RMDS 2550D will be in draft by the second quarter of FY 2008. Reasons for delay were not given by the Agency. On 01/07/08, the OIG began a followup audit on the Agency's implementation of corrective actions taken in response to report 2006-P-00027. Preliminary results indicate that corrective actions have not been completely implemented for report 2006-P-00027. The OIG followup report is planned to be issued in final in June 2008. Reasons for delay will be described in the OIG followup report.

Estimate of Monetary Benefits

As of 12/31/07, expected monetary benefits were approximately \$4.8 million.

Description of Non-Monetary Benefits

Recommendation 1: When Superfund costs are redistributed to specific sites, Agency management has the financial information it needs.

Recommendation 2: Project officers and finance personnel need training to become aware of their responsibilities to redistribute "WQ" costs.

Recommendation 4: Appropriate terms and conditions in cooperative agreements requiring recipients to provide timely site-specific details allow timely "WQ" redistributions.

Recommendation 5: Procedures in the closeout process to verify that "WQ" costs are redistributed are necessary to prevent closing out agreements without making redistributions.

Recommendation 6: Guidance that assigns specific responsibilities will help ensure that WQ costs are redistributed in a timely manner.

Report Title: EPA Needs to Better Implement Plan for Protecting Critical Infrastructure and Key Resources Used to Respond to Terrorist Attacks and Disasters
Report No.: 2006-P-00022
Date Issued: 04/26/2006

Summary of Report and Objectives

OIG sought to determine how well the EPA implemented initiatives in its Critical Infrastructure and Key Resources Protection Plan for protecting assets used to respond to terrorist attacks and other nationally significant incidents. OIG also examined progress EPA has made in addressing recommendations from a 2004 audit on managing Counter Terrorism/Emergency Response equipment.

Key Findings in Report

While EPA made progress in implementing the initiatives in the Critical Infrastructure and Key Resources Protection Plan, assignment of formal authority and more accountability is required to ensure the initiatives are accomplished in a timely manner. In some cases, EPA did not obtain adequate assets or sufficiently protect assets. Milestones for initiatives were missed or not established, and some managers responsible for implementing the initiatives were not aware of the protection plan. Better accountability and coordination would have improved EPA's ability to receive products that the Agency paid for, when needed. EPA also needs to improve its management of Counter Terrorism/Emergency Response equipment so that the Agency can efficiently determine what equipment is available and where it is located.

Unimplemented Recommendation

Recommendation 3-1 (c): We recommend that the Deputy Administrator direct OSWER and the regions to update warehouse data in the National Equipment Management System at specific intervals until a national Counter Terrorism/Emergency Response equipment database tracking system is operational.

Status: Regarding working with warehouses to load their data, data is being loaded for all but two regions. OSWER is working with them to get their current data (the original milestone date for this part of the recommendation was 12/15/06). Regarding training, the system has been demonstrated to representatives from all regions. Hands-on training has been completed for Region 3 (Philadelphia) and Emergency Response Team/National Decontamination Team Cincinnati. Training is scheduled for Region 8 (Denver) (the original milestone date for this part of the recommendation was 01/15/07). Regarding Agency-wide implementation, the implementation phase was planned to begin in mid-May 2007. Regions will be added to the system as they approve their data migration and receive training (the original milestone date for this part of the recommendation was 01/31/07).

Description of Non-Monetary Benefits

The ability of EPA to protect public health and the environment from future terrorist attacks or other nationally significant incidents will be significantly increased.

Report Title: EPA Can Improve Emissions Factors Development and Management
Report No.: 2006-P-00017
Date Issued: 03/22/2006

Summary of Report and Objectives

Quantifying air emissions is a vital aspect of measuring, managing, and regulating air pollution. Emissions factors are broad estimates of the emissions generated from a source, such as a factory. Because emissions factors underlie so many environmental decisions, the objectives of our evaluation were to determine whether: (1) emissions factors are of an acceptable quality for use in key environmental decisions made by EPA and State and local agencies; and (2) the Agency's process for developing, improving, and rating emissions factors is sufficient to meet key users' needs.

Key Findings in Report

EPA has made progress in emissions factors development since our review of the program in 1996, but a large number of factors continue to be rated low. The number of EPA-rated factors increased by nearly 94 percent, from 8,838 in 1996 to 17,110 in 2004. However, the percentage of emissions factors rated below average or poor increased from 56 percent in 1996 to 62 percent in 2004. Emissions factors, intended for use in developing emissions inventories, have been inappropriately used for key environmental decisions beyond their intended use. For example, emissions factors have been used for non-inventory purposes, such as setting permit limits and reporting the level of air pollution control at specific facilities. The quality of many emissions factors remains low in part because EPA did not have a sufficient process for developing, improving, and rating emissions factors, nor did EPA have a comprehensive strategic plan. We found inconsistent emissions factors guidance, continuing reliance on a qualitative rating system when a quantitative range of uncertainty is needed, and insufficient program funding when needs are increasing.

Unimplemented Recommendation

Recommendation 3-2: We recommend that the Assistant Administrator for the Office of Air and Radiation (OAR) develop and implement a comprehensive strategic plan that focuses on addressing future challenges expected in the Emissions Factors Program. The plan should address the development of criteria for prioritizing emissions factors development, for both new factors and selected existing factors that have the most environmental impact.

Status: This recommendation was planned for completion by 02/15/08. OAR has drafted and is revising a strategic plan to address the OIG's comments.

Description of Non-Monetary Benefits

Demand for emissions factors is increasing, and will continue for a broad array of environmental decisions, including measuring and reporting environmental progress. If EPA can improve the quality of its factors, this should improve environmental decision-making for reducing air pollution.

Report Title: EPA Can Better Implement Its Strategy for Managing Contaminated Sediments
Report No.: 2006-P-00016
Date Issued: 03/15/2006

Summary of Report and Objectives

Contaminated sediments are the soils, sands, organic matter, and other minerals that accumulate at the bottom of a water body and contain toxic or hazardous materials that may adversely affect human health and the environment. We sought to determine the effectiveness and outcomes achieved from EPA's Contaminated Sediment Management Strategy. In particular, we evaluated whether Federal authorities and resources provided effective solutions, and how well EPA measured strategy effectiveness and assessed contamination.

Key Findings in Report

EPA needs to better manage its efforts to clean up contaminated sediments on a nationwide basis. The Agency cannot assure that resources devoted to addressing contaminated sediments provide the most effective and efficient solutions for reducing the environmental and human health risks posed by this national problem. Program offices generally did not use National Sediment Inventory data for decision making, even though the inventory represents the most comprehensive source of data on contaminated sediments in the United States. Also, EPA did not sufficiently coordinate contaminated sediment activities performed by various EPA program offices. Many issues occurred because no program office within EPA has responsibility for overseeing contaminated sediments. In addition, EPA's 2004 National Sediment Quality Survey report did not provide a complete assessment of the extent and severity of sediment contamination across the Nation, nor fully meet the requirements of the Water Resources Development Act.

Unimplemented Recommendations

Recommendation 4: We recommend that the Assistant Administrator for OSWER use the watershed approach, including concepts from the Urban Rivers Restoration Initiative, at contaminated sediment National Priorities List sites in high priority watersheds.

Status: Original planned completion date for OSWER: Winter 2007. EPA conducted Webcast training on the *Integrating Water and Waste Programs to Restore Watersheds* manual on 07/11/06. Additionally, EPA will conduct a 2-day training workshop on the manual at three EPA regional offices using information from an actual watershed selected by the region hosting the training.

Recommendation 8a: We recommend that the Assistant Administrator for OW develop and implement a plan for future National Sediment Quality Survey reports that, consistent with the Water Resources Development Act, provides a comprehensive national assessment of the extent and severity of contaminated sediments. At a minimum the design should use a statistical sampling approach as the basis for collecting data from EPA and other sources and assessing the national extent and severity of contaminated sediments. As a cost savings alternative, consider

using statistical sampling in conjunction with existing data for the national assessment. Improve the completeness and availability of sample location information (metadata), quality assurance/quality control information, and assessment parameters for future National Sediment Quality Survey reports.

Status: Original planned completion date for OW: Spring 2007. OW will work with the Office of Research and Development to determine if a statistical design for collecting contaminated sediment data is practical and, if practical, develop a statistical design. OW will also develop electronic transfer protocols with other EPA offices, the National Oceanic and Atmospheric Administration, and States to collect contaminated sediment data that can be used for the next National Sediment Quality Survey.

Recommendation 8b: We recommend that the Assistant Administrator for OW develop and implement a plan for future National Sediment Quality Survey reports that, consistent with the Water Resources Development Act, provides a comprehensive national assessment of the extent and severity of contaminated sediments. At a minimum the design should ensure that the National Sediment Inventory and future National Sediment Quality Survey reports include contaminated sediment data from all major sources, including the Great Lakes National Program Office and Superfund program. At a minimum, establish a formal coordination process for acquiring contaminated sediment data from EPA program offices and applicable agencies and organizations outside EPA. Also, consider cost-effective options for acquiring and compiling contaminated sediment data maintained in paper format.

Status: Original planned completion date for OW: Summer 2007. OW will develop electronic transfer protocols with other EPA offices, the National Oceanic and Atmospheric Administration, and States to collect contaminated sediment data that can be used for the next National Sediment Quality Survey. OW also plans to develop with OSWER an approach for incorporating contaminated sediment data that are currently available only in paper format in the 10 EPA regional office or contractor files. Additionally, OW will hold workshops on the design of the next National Sediment Quality Survey.

Description of Non-Monetary Benefits

This report advised Agency officials of steps EPA can take to better implement its strategy for managing contaminated sediments. These steps will also help provide the most effective and efficient solutions for reducing the environmental and human health risks posed by this national problem.

Report Title: EPA Can Better Manage Superfund Resources
Report No.: 2006-P-00013
Date Issued: 02/28/06

Summary of Report and Objectives

The Superfund Trust Fund has decreased over the years so that in FY 2004 and FY 2005 all Superfund appropriations came from general tax revenue rather than the Trust Fund. Recent studies have reported shortages in funding needs for Superfund, and have identified needed improvements in how the program is managed. We performed this review in response to a congressional request to evaluate Superfund expenditures at Headquarters and the regions.

Key Findings in Report

EPA has been unable to allocate and manage Superfund resources for cleanup as efficiently and effectively as possible because of the way the Agency accounts for program resources, manages by functions, supplements the program with other funds, relies on an outdated workload model, and maintains unliquidated Superfund obligations and funds in special accounts. Closely aligning offices that support the Superfund program and producing program performance and cost data have been limited because EPA disperses the responsibility for allocating and managing program resources.

Unimplemented Recommendations

Recommendation 2-3 – Accounting Definitions: We recommend to the Assistant Administrator for OSWER that EPA should agree to define costs in a manner that supports management decision making and improve their accounting of such resources to maximize achieving program goals.

Status: EPA concurred with Recommendation 2-3, and it is partially implemented. There were two planned corrective actions to address this recommendation. To support management decision making, EPA is modifying Superfund E-Facts to reflect Superfund site cost data. The module is available for use by EPA staff. That action is considered completed. Second, EPA will review the applicability of the Agency’s current definition of administrative costs to the Superfund program. If the current definition is inadequate to support program goal management decision making, the Agency will explore alternative definitions and seek approval from Congress, as appropriate, to revise the definition. Because congressional approval may be required, a milestone cannot be definitely determined. The recommendation is not completed. Past Due Notes in MATS state that “We have completed eight of the eleven corrective action milestones for this audit. The remaining corrective action milestones are expected to be completed by July 30, 2008.”

Recommendation 2-5 – Determining Superfund Resource Needs and Allocations: We recommend to the Assistant Administrator for OSWER that EPA should conduct a workforce assessment and/or develop a workload model, comprehensively reevaluate regional and

Headquarters Superfund personnel levels and allocations, and develop and communicate a schedule to regularly evaluate Superfund workload models. Superfund removal needs and current allocations should be reviewed. Consideration of factors including regional/State capacity to conduct removals, nature of prior removal actions in regions/States, nature of regulated businesses/activities in regions/States, and the type or volume of hazardous material transport that occurs in regions/States may assist need or allocation decisions.

Status: EPA concurred with Recommendation 2-5. The original milestone date agreed to by the OIG was 01/31/07, and EPA has extended the milestone date to 07/30/08. Past Due Notes in the Agency's MATS state that "The Superfund Program is nearing completion of a national workforce assessment. The study took longer than expected because of its analytic complexity, the involvement of over 200 senior EPA employees in extensive focus group and work group discussions and on-going direction from the Superfund Board of Directors."

Recommendation 2-7 – Special Accounts: As of September 2005, approximately \$465 million in special accounts was potentially available for reallocation. We recommend to the Assistant Administrator for OSWER that EPA should timely review special account dollars and set up a formal process and schedule to ensure special account funds are used consistently according to the hierarchy specified in its guidance. This can include (1) using the funds as a settlement incentive for responsible parties; (2) conducting EPA-led cleanups; (3) applying the funds toward previous EPA expenditures at a site, which will allow funds previously reserved for the site to be "deobligated" for use at other sites (also known as reclassification); and (4) replenishing the Trust Fund.

Status: In a 05/30/06 response to the final report, the Agency concurred in part with the recommendation "as it relates to EPA guidance." The Agency did not agree "that \$465 million was potentially available for redistribution. Superfund cleanups involve many activities often taking place over long periods of time, requiring that funds be available in special accounts.... In addition, the Agency is bound by the terms of settlement agreements which govern the use of special account funds, which limits the transfer of funds for use at another site. However, EPA will continue to monitor the use of special accounts and the implementation of special account guidance." The recommendation is partially implemented. There were two planned corrective actions to address this recommendation. One was to conduct a special accounts meeting to provide face-to-face discussions with and networking among the regions, and that action is considered completed. The Agency was also to update the Comprehensive Environmental Response, Compensation, and Liability Information System database with fields that directly support the better management of special account initiative. The original planned due date, in the Agency's 06/27/06 response to the final report, was 09/30/06. The Agency stated in MATS that Phase 1 was completed 09/30/06. Phase 2 is ongoing and planned for 04/30/08 with inclusion of planning fields to be completed.

Estimate of Monetary Benefits

As of September 2005, approximately \$465 million in special accounts was potentially available for transfer to the Trust Fund, though not all of these funds may have been available immediately.

Description of Non-Monetary Benefits

Recommendations 2-3, 2-5, and 2-7 are intended to help EPA manage its Superfund resources more efficiently and effectively.

Report Title: Rulemaking on Solvent-Contaminated Industrial Wipes
Report No.: 2006-P-00001
Date Issued: 10/04/2005

Summary of Report and Objectives

This report responded to a congressional request that OIG evaluate the process for developing the EPA Office of Solid Waste's 2003 proposed rule for regulating disposable and reusable solvent-contaminated industrial wipes.

Key Findings in Report

OIG found the following regarding specific concerns presented to us by Congress related to EPA rulemaking for industrial wipes:

- EPA met all legal and internal requirements for rulemaking when it developed the industrial wipes proposed rule. EPA complied with the Administrative Procedure Act, which establishes requirements for rulemaking.
- EPA officials and staff had extensive contact with representatives of the industrial laundry industry, but also had extensive contacts with disposable wipes industry representatives and others. No one indicated they were excluded from the rulemaking process. EPA allowed active public involvement through meetings, telephone calls, emails, and letters.
- The industrial laundry industry exerted considerable influence on the aspect of the proposed rule to exclude reusable wipes from solid waste regulations. However, we found no evidence that the influence was illegal or inconsistent with EPA's standard business practice of obtaining input from stakeholders.

Unimplemented Recommendations

Recommendation 2-2: We recommend that the Associate Administrator for OPEI work with OSWER to determine how best to complete the Comprehensive Regulatory Data form in future rulemaking actions.

Status: OPEI's planned completion date was 08/01/06. OPEI is undertaking two efforts related to this recommendation. First, OPEI has revised the Tiering Form (the form a program office fills out at the start of an actions development). OPEI will continue to examine all of the forms in the Rule and Policy Information Development System to see if additional changes are needed. Secondly, OPEI is currently developing a new tracking system that will replace the Rule and Policy Information Development System. This is a longer term project and OPEI hopes to have a prototype in by 2008.

Recommendation 4-1: We recommend that the Deputy Assistant Administrator for OSWER, in collaboration with OPEI and the Agency's Regulatory Steering Committee, develop a guidance document that discusses how to avoid favoritism and the appearance of favoritism in Agency actions, including the development of rules.

Status: The guidance was originally planned to be issued in the spring of 2006 but then OPEI decided not to issue such guidance. OPEI stated that, “Agency documents already address this issue, including memos from a former EPA Administrator.” This decision was not discussed with the OIG.

Recommendation 4-2: We recommend that the Deputy Assistant Administrator for OSWER, in collaboration with OPEI, develop a guidance document that clearly defines rulemaking docketing requirements, by stages of a rulemaking, and ensure they are consistently followed to avoid the appearance of favoritism.

Status: OPEI’s planned completion date was 12/31/06. In MATS, OPEI stated, “A docketing ‘frequently asked questions’ document has been circulated to the RSC and we recently received copies from the Office of General Counsel. We plan to issue this by mid-2008.”

Description of Non-Monetary Benefits

Recommendation 2-2: Following Agency guidelines provides consistency and creates organization because the Comprehensive Regulatory Data form is a maintenance form that tracks a rulemaking from its preliminary stages to approval as a final rule. Workgroups are to keep the Comprehensive Regulatory Data on a rule current throughout the action development process.

Recommendations 4-1 and 4-2: The appearance of favoritism is not beneficial to EPA. EPA actions should not contribute to public perceptions of impropriety. The suggested guidance would assist in clarifying when public involvement exceeds appropriate levels or has the appearance of favoritism.

Report Title: Sustained Commitment Needed to Further Advance Watershed Approach
Report No.: 2005-P-00025
Date Issued: 09/21/2005

Summary of Report and Objectives

This evaluation determined how well EPA is doing in four critical elements to advance the watershed protection approach to achieving clean water under the Clean Water Act and Safe Drinking Water Act. We evaluated those elements using the following questions:

- *Integration:* What progress has EPA made in integrating watershed approach principles into its water programs and activities?
- *Stakeholder Participation:* What advantages/opportunities and challenges exist for EPA to persuade stakeholders to adopt the watershed approach?
- *Strategic Planning:* How well has EPA strategically planned for implementing the watershed approach?
- *Performance Measurement:* How adequately does EPA measure the success of the watershed approach?

Key Findings in Report

- EPA has made progress integrating watershed approach principles into some of its core water programs, but needs to address challenges to ensure further success.
- Stakeholders were enthusiastic about the watershed approach, but identified a number of obstacles when adopting the approach.
- EPA has made important strides incorporating the watershed approach into its strategic plans, but it must improve some key steps.
- Although EPA developed a performance measurement system for improving water quality on a watershed basis, EPA did not develop measures to evaluate key programs and activities, and its national outcome measures were not understandable, comparable, and reliable.

Unimplemented Recommendation

Recommendation 6-1: If EPA is committed to the watershed approach, we recommend that the Assistant Administrator for OW continue to integrate watershed activities into its core water programs. Specifically, EPA could:

- Commit the necessary resources to support, where appropriate, the development of watershed permits, watershed Total Maximum Daily Loads (TMDLs), and watershed plans;
- Evaluate the benefits and costs of watershed permitting and watershed TMDLs; and
- Work closely with States to ensure that the Clean Water SRF is used as an additional source of funding for nonpoint source and other watershed-related projects.

Status: Original completion date of 11/01/07 has been extended by EPA to 12/31/08. In an EPA February 2008 update, EPA indicated OW has received preliminary information and results for the three watershed TMDL pilots funded. The pilots are currently being finalized and the findings will be incorporated into the Watershed TMDL Practitioner's Guide and planned training modules currently in development (drafts 4 of the 9 planned chapters have been completed). While the project is behind schedule, EPA has extended no cost extensions to the authors of the three pilot studies so that they can assist the contractor in the completion of the Watershed TMDL Practitioner's Guide. The schedule for EPA's work with the contractor on this document would put its release in public draft form at the end of FY 2008.

Description of Non-Monetary Benefits

The watershed approach is a strategy for achieving clean water that relies on decentralized decision making and stakeholder involvement to effectively protect and restore aquatic ecosystems.

Report Title: Limited Knowledge of the Universe of Regulated Entities Impedes EPA's Ability to Demonstrate Changes in Regulatory Compliance
Report No.: 2005-P-00024
Date Issued: 09/19/2005

Summary of Report and Objectives

We sought to determine how well OECA knows the composition and size of its regulated universe, as well as how OECA determines and reports compliance levels. To enforce its regulations and achieve maximum compliance, a regulatory agency must know its entire regulated universe.

Key Findings in Report

OECA has limited knowledge of the diverse regulated universe for which it maintains responsibility. OECA has not updated its universe table since generating it in 2001, even though some universe figures for reviewed program areas have changed substantially. Various data quality issues impact OECA's ability to adequately identify the size of its regulated universe and associated compliance information. OECA concentrates most of its regulatory activities on large entities and knows little about the identities or cumulative impact of small entities.

Unimplemented Recommendations

Recommendation 2-1: We recommend that the Assistant Administrator for OECA biannually update publicly released universe figures by tracking and recording the number of entities over which OECA has oversight and primary regulatory responsibility.

Status: Original planned completion date of July 2006 has been extended by EPA to September 2008. EPA reported as of March 2007 that this action is partially completed. OECA only agreed to review universes related to the Performance Based National Priorities. OECA is refining these Strategies and will be working on updating the priority universes through that effort. OECA has ceased using the 41 million universe figure altogether, and switched to the Facility Registry System as the official data base of regulated entities, as committed. In September 2007, EPA stated it expected to complete its review of the universe related to the Performance Based National Priorities by the end of November 2007. In the latest estimate, OECA indicated it will need to work collaboratively with States to develop a policy for data to be collected and tracked by States, and to update the performance based strategy. All actions are planned for completion no later than September 2008.

Recommendation 2-4: We recommend that the Assistant Administrator for OECA develop an objective of having the most up-to-date and reliable data on all entities that fall under its regulatory responsibility. OECA should adopt the goals of requiring States to track, record, and report data for entities over which States have regulatory responsibility. To achieve this goal, OECA should develop a multi-State, multi-program pilot program of collecting data that States track, record, verify, and report.

Status: The original planned completion date of July 2006 has been extended by EPA to no later than September 2008. EPA reported that as of March 2007, OECA has been collaborating with the States, via the Expanded Steering Committee, which includes representatives from EPA staff, regions, and managers; the Environmental Council of States; and the Association of State and Interstate Water Pollution Control Administrators, on the development of the Integrated Compliance Information System-National Pollutant Discharge Elimination System Policy Statement since December 2005. Discussions between EPA and the States are still actively continuing in an effort to resolve State issues. The revised completion is July 2007.

EPA reported that on 04/30/07, it distributed a draft Integrated Compliance Information System-National Pollutant Discharge Elimination System Policy Statement to the Environmental Council of States and the Association of State and Interstate Water Pollution Control Administrators for review and comment. State comments dealt mainly with resource concerns, especially for data the Agency is requesting on the smaller and minor entities. EPA management is considering the State comments and has communicated next steps to the States, which will include rulemaking to require the data. In addition, there are now 21 States, tribes or territories using the Integrated Compliance Information System-National Pollutant Discharge Elimination System directly from which we can learn about State data entry for National Pollutant Discharge Elimination System program areas not available in the Permit Compliance System. EPA will not be conducting a multi-program pilot.

Description of Non-Monetary Benefits

To enforce its regulations and achieve maximum compliance, a regulatory agency must know its entire regulated community. This knowledge enables an agency to make more informed management decisions about compliance and enforcement resource allocations, and provides Congress and the public with data on whether compliance is increasing. Further, if entities realize they are unknown to a regulatory agency, they may be less likely to comply with environmental regulations, and enforcement actions by EPA may be unlikely to occur.

Report Title: Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to Be Fully Realized
Report No.: 2005-P-00010
Date Issued: 03/09/2005

Summary of Report and Objectives

Title V of the Clean Air Act, designed to reduce violations and improve enforcement of air pollution laws for the largest sources of air pollution, requires that all major stationary sources of air pollutants obtain a permit to operate. More than 17,000 sources are subject to Title V permit requirements. We sought to determine whether (1) selected Title V permits contained adequate provisions consistent with key Clean Air Act requirements, (2) EPA's oversight and guidance contributed to improvements in Title V implementation, and (3) Title V had achieved its goals of improving the implementation and enforcement of the Clean Air Act.

Key Overall Findings in Report

Our analysis identified concerns with five key aspects of Title V permits: (1) permit clarity, (2) statements of basis, (3) monitoring provisions, (4) annual compliance certifications, and (5) practical enforceability. Collectively, these problems can hamper the ability of EPA, State and local regulators, and the public to understand what requirements sources are subject to, how they will be measured, and ultimately to hold sources accountable for meeting applicable air quality requirements. EPA's oversight and guidance of Title V activities have resulted in some improvements in Title V programs; however, areas of further improvement remain.

Key Findings in Report Regarding Recommendation 2-1

Title V requires that responsible officials at permitted sources sign annual compliance certifications. The annual compliance certification is an important compliance tool that provides a statement of the source's compliance status with respect to its permit terms over a 1-year reporting period. Congress included the annual compliance certification provisions in Title V to ensure that the responsible official certify that they have knowledge of a plant's Clean Air Act obligations and whether the plant met these obligations. Noncompliance with annual compliance certification provisions can result in penalties including fines and imprisonment. The annual compliance certifications submitted by the Title V permit holders in the four States we visited differed substantially as to completeness from State to State and did not consistently address compliance for the same terms and conditions in the permits. OAR has not issued guidance that explains the required terms and conditions that should be certified for compliance in an annual compliance certification. As a result, Title V sources have not been required to report their compliance status consistently throughout the country.

Key Findings in Report Regarding Recommendation 2-2

On 10/29/99, the U.S. Circuit Court of Appeals in *Natural Resources Defense Council* considered the Agency's annual compliance certification requirements for its final operating permits program and concluded that these requirements did not address whether the permittee

had been in “continuous or intermittent” compliance.¹ In June 2003, EPA issued a final rule that removed the text that requires responsible officials to identify whether the compliance determination methods provide continuous or intermittent data. EPA replaced the text with a requirement to state whether compliance was continuous or intermittent during the period covered by the annual compliance certification.

EPA amended 40 Code of Federal Regulations (CFR) 70.6 (c)(5)(iii)(B) and 40 CFR 70.6 (c)(5)(iii)(C) to state that continuous or intermittent compliance referred to the compliance status during the year, and not the nature of the data obtained by the monitoring method. However, a mistake was apparently made in this rule by excluding a key clause on credible evidence. The following sentence related to credible evidence in annual compliance certifications was left out of the current regulations in 40 CFR 70.6(c)(5)(iii)(B),

If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113 (c) (2) of the Act, which prohibits knowingly making a false certification or omitting material information.

According to a key Office of Air Quality Planning and Standards official, the omission was inadvertent and occurred due to an administrative error. The official stated that this provision is strongly disliked by industry. Office of Air Quality Planning and Standards has attempted to place this language back into Part 70. This revision had not been completed at the time we finished our field work.

Key Findings in Report Regarding Recommendation 2-3

EPA has not clearly established what the minimum level of acceptable statement of basis or annual compliance certification content should be. Without such nationwide guidance, significant inconsistencies have resulted. Evidence indicates that problems with vague permit language and insufficient monitoring provisions have posed potential practical enforceability problems for Federal and State enforcement officials. Collectively, the problems with permit clarity and the adequacy of permit content undermine a basic tenet of the 1990 Clean Air Act Amendments – that of transparency, openness, and full and effective public involvement

Unimplemented Recommendations

Recommendation 2-1: We recommend that the Assistant Administrator for OAR develop and issue guidance or rulemaking on annual compliance certification content which requires responsible officials to certify compliance with all applicable terms and conditions of the permit, as appropriate.

Status: EPA stated in MATS that it is using recommendations from the Clean Air Act Advisory Group Task Force on Title V Implementation and is completing production of a guidance document to satisfy the OIG recommendation. According to the Audit Liaison

¹ *Natural Resources Defense Council, Inc. v. Environmental Protection Agency*, 194 F.3d 130 (D.C. Cir. 1999).

for the Office of Air Quality Planning and Standards, the guidance will address annual compliance certifications and statements of basis (see also recommendation 2-3). EPA expects to complete the action by September 2008. However, EPA has not submitted a formal action plan to the OIG stating how it plans to address this recommendation. On 02/04/08, EPA agreed to draft the formal action plan for the OIG, which will be signed at the Assistant Administrator level. It was also agreed that a draft copy of the guidance will be provided to the OIG for review.

Recommendation 2-2: We recommend that the Assistant Administrator for OAR issue the draft rule regarding intermittent versus continuous monitoring as it relates to annual compliance certifications and including credible evidence.

Status: EPA did not concur with this recommendation, and it remains unresolved. According to the Audit Liaison for the Office of Air Quality Planning and Standards, EPA is preparing to raise this recommendation through the appeals process.

Recommendation 2-3: We recommend that the Assistant Administrator for OAR develop nationwide guidance or rulemaking, as appropriate, on the contents of statements of basis which includes discussions of monitoring, operational requirements, regulatory applicability determinations, explanations of any conditions from previously issued permits that are not being transferred to the Title V permit, discussions of streamlining requirements, and other factual information, where advisable, including a listing of prior Title V permits issued to the same applicant at the plant, attainment status, and construction, permitting, and compliance history of the plant.

Status: EPA stated in MATS that it is using recommendations from the Clean Air Act Advisory Group Task Force on Title V Implementation and is completing production of a guidance document to satisfy the OIG recommendation. According to the Audit Liaison for the Office of Air Quality Planning and Standards, the guidance will address annual compliance certifications and statements of basis (see also recommendation 2-1). EPA expects to complete the action by September 2008. However, EPA has not submitted a formal action plan to the OIG stating how it plans to address this recommendation. On 02/04/08, EPA agreed to draft the formal action plan for the OIG, which will be signed at the Assistant Administrator level. It was also agreed that a draft copy of the guidance will be provided to the OIG for review.

Recommendation 3-1: We recommend that the Assistant Administrator for OAR promulgate the draft order of sanctions rule which provides notice to State and local agencies, as well as the public, regarding the actions that will be taken when Notices of Deficiency are not timely resolved by State and local Title V permitting authorities.

Status: EPA did not concur with this recommendation, and it remains unresolved. According to the Audit Liaison for the Office of Air Quality Planning and Standards, EPA is preparing to raise this recommendation through the appeals process.

Description of Non-Monetary Benefits

Recommendation 2-1: Annual compliance certifications that contain insufficient information reduce the source's level of accountability to EPA, State and Federal regulators, and the public.

Recommendation 2-2: Without sufficient monitoring provisions, it is difficult to measure whether or not a source is complying with applicable requirements on a regular basis. Our review of 40 State-issued Title V permits found that 90 percent of these permits included some type of gap-filling where the underlying regulations contained either no monitoring, or insufficient monitoring provisions. These results suggest that a substantial lack of sufficient monitoring requirements may exist in State and Federal regulations. EPA's decision to re-write its draft sufficiency monitoring rule, and issue instead the more narrow January 2004 final umbrella monitoring rule, could limit the ability of State and local permitting authorities and EPA regions to use Title V permits to correct monitoring deficiencies. EPA did, however, recognize the need to address monitoring in underlying regulations in the umbrella rule. In this rule, EPA committed to taking several actions to improving monitoring, including issuing periodic monitoring guidance and issuing an advanced notice of public rulemaking, calling for public comment on monitoring inadequacies in State Implementation Plans and Federal regulations.

Recommendation 2-3: When permitting authorities include only minimal information in statements of basis, they miss an opportunity to make permits that are essentially complicated engineering documents more understandable to stakeholders by including explanations for permit decisions.

Recommendation 3-1: The "order of sanctions" rulemaking is a first step before EPA can take sanctions against a State. EPA drafted a proposed rule on the applicability of sanctions related to unresolved notices of deficiency, but the proposed rule has not been issued for comment in the Federal Register.

Report Title: EPA and States Not Making Sufficient Progress in Reducing Ozone Precursor Emissions in Some Major Metropolitan Areas
Report No.: 2004-P-00033
Date Issued: 09/29/2004

Summary of Report and Objectives

Tropospheric ozone has been linked to respiratory illnesses and other serious health concerns, such as asthma and heart disease. About 109 million Americans live in areas that do not meet EPA's 1-hour ozone standard – issued over 25 years ago – that requires ozone levels not exceed an average of .12 parts per million over a 1-hour period. Accordingly, our objectives were to answer the following:

- Have emission reduction controls been as effective as originally projected in reducing ozone precursor emissions (Nitrogen Oxides and Volatile Organic Compounds)?
- Have emission reduction plans and related controls been properly completed and implemented to reduce precursor emissions by 3 percent annually within the timeframes established by the Clean Air Act?
- Have EPA and States adequately measured the effectiveness of emission controls in reducing (1) overall precursor emissions as required by the Clean Air Act, and (2) ambient ozone concentrations?

Key Findings in Report

Despite national and regional progress, some major metropolitan areas have not achieved the ozone precursor emission reductions required by the 1990 Clean Air Act. Our analysis of EPA emissions data for “serious,” “severe,” and “extreme” ozone nonattainment areas indicates that some major metropolitan areas may not have achieved the required 3-percent annual emission reductions in ozone precursor emissions.

Unimplemented Recommendations

Recommendation 3-1: We recommend that the Assistant Administrator for OAR develop oversight procedures and guidance that will expedite development, approval, and implementation of Rate-of-Progress Plans and related emission controls.

Status: EPA has prepared and submitted an alternative solution using other attainment planning and emissions reduction requirements in Clean Air Act section 182 and EPA's 8-hour ozone implementation rule (70 Federal Register 71612, November 29, 2005). These collectively provide effective technical assurance of continued progress toward attainment of the ozone national ambient air quality standard. This recommendation was originally planned for completion by November 2007 and is currently delayed until March 2008.

Recommendation 6-2: We recommend that the Assistant Administrator for OAR issue guidance for the development of meteorologically adjusted ozone trends for individual non-attainment areas, updated annually, to better isolate the impact of emission reductions on ozone levels.

Status: EPA plans to issue guidance in February 2008. A draft guidance document is now undergoing final revision and expected out in early 2008. This recommendation was originally planned for completion by November 2007 and is currently delayed until March 2008.

Description of Non-Monetary Benefits

This report will help EPA in its efforts to ensure that the most polluted metropolitan areas expeditiously attain the 1-hour ozone standard, as well as implement and oversee the more stringent 8-hour standard.

Report Title: EPA Needs to Reinforce Its National Pretreatment Program
Report No.: 2004-P-00030
Date Issued: 09/28/2004

Summary of Report and Objectives

The Agency considers the pretreatment program successful in reducing discharges of harmful industrial pollutants, and this has resulted in less resources and attention being directed toward this program in recent years. However, toxic pollutants are still being transferred to sewage treatment plants, and the impact to human health and the environment of some of these pollutants may still not be known. Our objectives were to answer the following:

- How effectively have the pretreatment regulations controlled industrial user discharges?
- What are the differences in how Publicly Owned Treatment Works (POTWs) with and without approved pretreatment programs oversee their industrial users and do these differences affect protection of the plant and receiving waters?
- How well is EPA maintaining its program gains and addressing future needs and do EPA's pretreatment program measures show the program's progress?

Key Findings in Report

The reductions in industrial waste discharges to the nation's sewer systems that characterized the early years of the pretreatment program have not endured, according to EPA published data compiled from information provided by industrial facilities. Since the middle of the 1990s, there has been little change in the volume of a broad list of toxic pollutants transferred to POTWs or in the index of risk associated with these pollutants. As a result, the performance of EPA's pretreatment program, which is responsible for controlling these discharges, is threatened, and progress toward achieving the Clean Water Act goal of eliminating toxic discharges that can harm water quality has stalled. The curtailing of the early gains may be explained in part by two factors: (1) dischargers that developed systems in response to EPA's initial program requirements have not enhanced their pretreatment systems in recent years, and (2) the rate at which EPA has been issuing effluent guidelines dramatically declined since 1990. Without more visible leadership from Headquarters, improved programmatic information, and the adoption of results-based performance measures, EPA's pretreatment program is at risk of losing the gains it made in its early years.

Unimplemented Recommendations

Recommendation 3-1: We recommend that the Acting Assistant Administrator for OW direct staff to finalize its guidance on regulating industrial users discharging to a POTW without an approved program and provide milestones for doing so to the OIG. This guidance should provide recommended frequency of various oversight activities such as inspections and sampling.

Status: OW agreed that guidance on tracking, overseeing, and controlling significant industrial users is important to ensure achievement of the Pretreatment Program's goals. From the EPA Regional and State Profiles, OW will gather information on the diverse

tools that States and EPA regional offices currently use to oversee and control these significant industrial users, including reporting and tracking methods. OW believes that the resulting toolbox, together with the development of standardized accounting (e.g., number, location, and industrial sectors) of these significant industrial users will assist future oversight in this area. This recommendation was planned for completion by September 2007.

Recommendation 3-2: We recommend that the Acting Assistant Administrator for OW direct staff to, for regions and States unable to follow EPA's guidance for basic oversight of industrial users discharging to POTW's without approved programs, encourage the regions/States to have these POTW's assume oversight responsibilities as part of their National Pollutant Discharge Elimination System permit requirements.

Status: OW anticipates that this recommendation will be addressed within the Strategy developed from the Permitting for Environmental Results nation-wide assessment of the National Pollutant Discharge Elimination System permit programs. This recommendation was planned for completion by September 2007.

Recommendation 3-3: We recommend that the Acting Assistant Administrator for OW direct staff to encourage regions/States to have POTWs without approved programs that are conducting oversight responsibilities to report on an annual basis violations and enforcement action taken to their control/approval authority.

Status: OW anticipates that this recommendation will be addressed within the Strategy developed from the Permitting for Environmental Results nation-wide assessment of the National Pollutant Discharge Elimination System permit programs. This recommendation was planned for completion by September 2007.

Recommendation 3-4: We recommend that the Acting Assistant Administrator for OW direct staff to promote training opportunities to all POTWs by determining (a) the POTWs' ability to access information on EPA's Website and (b) the types of training POTWs need.

Status: OW agreed that training is key to maintaining pretreatment program knowledge and the program gains of the past 30 years of implementation. In addition, OW states that it will emphasize that pretreatment training and outreach activities are program priorities, and will encourage regional offices to identify State and regional training needs and include such activities in their regional project plans. This recommendation was planned for completion by September 2007.

Recommendation 4-1: We recommend that the Acting Assistant Administrator for OW direct staff to develop a long-term strategy to identify the data it needs for developing pretreatment results-based measurements; determine the resources necessary to carry out the strategy; and gain the support of other Agency, State, and POTW staff to carry out the strategy.

Status: OW agreed to request information on databases used by the EPA regions and States to store information regarding POTW pretreatment program performance.

Through the Permitting for Results process, OW will compile information regarding current data systems used to store pretreatment data at the EPA regional and State level. OW intends to use this information to identify inaccurate data and target data correction in the Permit Compliance System. Both of these activities are crucial to facilitate migration and retention of data as we transition to the Integrated Compliance Information System. Once these efforts are complete, OW will be able to determine a long-term strategy based on data availability and resources, which should ultimately assist us in developing pretreatment result-based measurements. This recommendation was planned for completion by September 2007.

Recommendation 4-3: We recommend that the Acting Assistant Administrator for OW direct staff to evaluate the resource needs of the pretreatment program to enable it to make further reductions in industrial waste transfers and risk. The additional funding should be requested in the next funding cycle.

Status: OW's Office of Wastewater Management is finalizing its Strategic Plan for the next 3 years. As Strategic Goals and associated tasks are determined, OW will evaluate the resources necessary to complete those actions. In addition, the Permitting for Environmental Results effort has helped OW confirm that the resources allocated to implementing the entire National Pollutant Discharge Elimination System program, including the pretreatment program, are insufficient. This recommendation was planned for completion by September 2007.

Description of Non-Monetary Benefits

OW will be able to take stock of the pretreatment program by determining a meaningful performance measure that entails continued improvement, establishing a mechanism to achieve that goal, and acquiring additional resources to implement necessary programmatic improvements.

Report Title: EPA Needs to Improve Tracking of National Petroleum Refinery Compliance Program Progress and Impacts
Report No.: 2004-P-00021
Date Issued: 06/22/2004

Summary of Report and Objectives

OECA selected the petroleum refinery industry as a national enforcement priority in 1996 because refineries had the highest inspection-to-enforcement ratio of the 29 industry sectors ranked by EPA and account for significant releases of pollution into the environment. These pollutants seriously impact human health and the environment, and include pollutants known or suspected to cause cancer or other serious human health effects. Our evaluation focused on OECA's enforcement and compliance assurance activities at petroleum refineries from FYs 1996 through 2004. Our specific objectives were to answer the following questions:

- What is the nature and extent of the regulated petroleum refinery universe?
- To what extent have EPA (OECA, other program offices, and EPA regions), the U.S. Department of Justice, and EPA's partners (States and Tribes) developed an integrated strategy (that considers compliance assistance, compliance incentives, inspections, and enforcement actions) to address priority noncompliance problems at petroleum refineries?
- Does the performance measurement and reporting approach for petroleum refineries provide the information necessary to effectively implement, manage, evaluate, and improve OECA's petroleum refinery program?
- Did EPA effectively implement and manage the petroleum refinery program?
- What lessons can be learned from OECA's petroleum refinery program?

Key Findings in Report

OECA's performance measurement and reporting approach for the national petroleum refinery program has not provided useful and reliable information necessary to effectively implement, manage, evaluate, and continuously improve program results. OECA has not established and communicated clear goals, systematically monitored refinery program progress, reported actual outcomes, or tracked progress toward achievement of consent decree goals. In addition, during consent decree implementation, EPA may have delayed emissions reductions and compromised compliance.

Unimplemented Recommendation

Recommendation 3-1: We recommend that the Assistant Administrator for OECA disseminate the lessons learned from the refinery program to EPA staff to benefit other compliance efforts, obtain additional feedback from stakeholders – including States, industry, and environmental groups – on other lessons learned, and update relevant OECA guidance documents such as OECA's Framework for a Problem-Based Approach to Integrated Strategies or other appropriate documents for on-going and future industry specific enforcement programs.

Status: OECA agreed with the recommendation and anticipated that the completion date for the review would occur in mid-2007, which would allow time for the development of performance based strategies for the 2008-2010 round of OECA national priorities. Most recently, OECA projected a completion date no later than 03/31/08.

Description of Non-Monetary Benefits

EPA learned several important lessons that it should apply throughout its refinery program and consider for other enforcement and compliance assurance programs. EPA effectively demonstrated some of these lessons learned, such as focusing on specific enforcement concerns, becoming knowledgeable about the industry, and encouraging EPA regional and Headquarters staff to effectively work together. Other lessons learned that EPA needs to improve upon include the need to clearly communicate roles and responsibilities, meaningfully engage stakeholders throughout the process, and diligently oversee consent decree compliance.

Report Title: Nationwide Identification of Hardrock Mining Sites
Report No.: 2004-P-00005
Date Issued: 02/04/2004

Summary of Report and Objectives

OSWER suggested that we examine the issue of mega-sites (sites with actual or expected total removal and remedial action costs of \$50 million or more) due to potentially significant cost implications for the Superfund Trust fund. This review focuses on hardrock mining sites because these sites are costly and complex. Resources for the Future recently reported that “the average cost to clean up a non-mega mining site on the National Priorities List is about \$22 million, more than double the average for most other non-mega site types, such as chemical manufacturing and recycling sites.” Our overall evaluation question was: “Is there a financial impact from hardrock mining sites on the Superfund Trust fund and on States?” This report involved developing an inventory of hardrock mining sites, and providing information on current sites as well as those that may need to be addressed by Superfund in the future.

Key Findings in Report

We identified 156 hardrock mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion total to clean up (at a maximum total cost to EPA of approximately \$15 billion). These costs are over 12 times EPA’s total annual Superfund budget of about \$1.2 billion for the last 5 years. This suggests potential difficulties for the Superfund program, although, based on how EPA may apply listing and/or funding criteria, these costs may not all fall to EPA.

Unimplemented Recommendations

Recommendation 1a: We recommend that the Assistant Administrator for OSWER lead, implement, or co-implement as appropriate, and as their jurisdiction and authority permit, a review and analysis of the long-term sustainability, and complete environmental liability of businesses involved in current or inactive hardrock mining operations.

Status: OSWER agreed to make revisions to the financial assurance provisions of the model settlement agreements, review of the financial assurances at fund takeover sites, and initiating the analysis of total liability of certain Potentially Responsible Parties with multi-site liabilities. In addition, OSWER will assess if financial assurances are needed earlier than are currently called for in existing regulations, and study alternative ways to assure that Potentially Responsible Party funds are available in the event of their inability to perform the response action. This recommendation was planned for completion by July 2007. As of 08/07/07, the corrective action milestones have been delayed because the National Mining Team has taken the lead for the Deputy Administrator’s new mining initiative and has been reconsidering these milestones as part of a larger mining strategy.

Recommendation 1b: We recommend that the Assistant Administrator for OSWER lead, implement, or co-implement as appropriate, and as their jurisdiction and authority permit, a

review and analysis of the type of remediation technologies (engineered or non-engineered) that are in use at existing Superfund hardrock mining sites, and other hardrock mining sites under EPA's jurisdiction. The review should address the projected long-term costs and period of operation of the remediation technologies, assuming a stated cleanup standard.

Status: OSWER agreed to work with the regions and address the projected long-term costs and period of operation of the remediation technologies. This recommendation was planned for completion by December 2007. As of 08/07/07, the corrective action milestones have been delayed because the National Mining Team has taken the lead for the Deputy Administrator's new mining initiative and has been reconsidering these milestones as part of a larger mining strategy.

Recommendation 2: We recommend that the Assistant Administrator for OSWER continue to support Agency programs and activities related to developing improvements in the Agency's National Hardrock Mining Framework and developing and sustaining Agency expertise in hardrock mining.

Status: The Agency agreed to continue supporting programs and activities related to improving the Agency's Hardrock Mining Framework and developing and sustaining Agency expertise in hardrock mining through activities of the Abandoned Mine Lands Team and National Mining Team. This recommendation is still ongoing according to the MATS report. However, as of 08/07/07, the corrective action milestones have been delayed because the National Mining Team has taken the lead for the Deputy Administrator's new mining initiative and has been reconsidering these milestones as part of a larger mining strategy.

Recommendation 3: We recommend that the Assistant Administrator for OSWER prioritize Agency assistance and guidance on hardrock mining site management issues based on the immediate risks and overall potential workload that a region is expected to encounter based on the region's hardrock mining profile.

Status: The Agency agreed to develop the appropriate guidance that satisfies this recommendation. This recommendation was planned for completion by December 2007. However, as of 08/07/07, the corrective action milestones have been delayed because the National Mining Team has taken the lead for the Deputy Administrator's new mining initiative and has been reconsidering these milestones as part of a larger mining strategy.

Description of Non-Monetary Benefits

This report provides information on estimated cleanup costs, human health and environmental risks, cleanup responsibilities, and cleanup time estimates.

Report Title: EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement
Report No.: 2003-P-00012
Date Issued: 08/21/2003

Summary of Report and Objectives

The OIG addressed six questions regarding how EPA responded to the World Trade Center (WTC) towers collapse on September 11, 2001, and how it could better respond in the future:

- Did the available monitoring data and analyses of that data support EPA's major public communications regarding air quality and associated health risks resulting from the collapse of the WTC towers?
- Were EPA actions and decisions in regard to evaluating, mitigating, and controlling risks to human health from exposure to indoor air pollutants in the WTC area consistent with applicable statutes, regulations, policies, guidance, and practice?
- Were asbestos demolition and renovation work practice standards followed during WTC cleanup and recovery operations and, if not, why not?
- To what extent were EPA and government communications regarding air quality and associated health risks: (a) received by the public, (b) understood by the public, and (c) effective in getting people to take the desired actions to reduce potential health risks?
- What additional actions, if any, should EPA take to improve its response and recovery efforts in the WTC area related to ambient and indoor air quality?
- Should EPA revise its preparation and contingency planning for dealing with air pollution resulting from future catastrophes?

Key Findings in Report

1. EPA's early public statements following the collapse of the WTC towers reassured the public regarding the safety of the air outside the Ground Zero area. However, when EPA made a September 18, 2001, announcement that the air was "safe" to breathe, it did not have sufficient data and analyses to make such a blanket statement.
2. EPA's actions to evaluate, mitigate, and control risks to human health from exposure to indoor air pollutants in the WTC area were consistent with applicable statutes and regulations.
3. We could not conclusively determine the extent to which required work practices regarding the control of asbestos were followed at the WTC site during demolition and debris removal. Since asbestos is a known human carcinogen, EPA has established stringent work practices to control emissions of asbestos resulting from demolition and renovation projects. We found that a significant requirement to reduce emissions in emergency demolitions – wetting damaged buildings before demolition and keeping the waste material wet after demolition – was followed. However, work practices applicable to the transport of debris from the site were employed inconsistently. The specific impact on air quality of any variance from EPA's asbestos emergency work practices is unknown.
4. Evidence gathered through government hearings, news polls, health studies, and our interviews indicated that the public did not receive sufficient air quality information and

wanted more information on associated health risks. Also, evidence indicated that government communications were not consistently effective in persuading the public to take recommended precautions.

5. The majority of officials contacted indicated EPA did not need to take additional actions to address outdoor ambient air quality concerns. However, concerns were expressed regarding indoor contamination, and several more measures can be taken to ensure that indoor cleanup effectively minimizes health risk exposure.
6. The events of September 11, 2001, had national security ramifications not previously experienced, and many persons interviewed spoke highly of the response of EPA and its employees. Still, we, as well as EPA and others, have identified lessons learned from the response that can improve EPA's preparedness for future disasters. An overriding lesson learned was that EPA needs to be prepared to assert its opinion and judgment on matters that impact human health and the environment.

Unimplemented Recommendations

While EPA did take substantial and significant actions, the Agency was not able to identify the status of all OIG recommendations. Therefore, we relied upon results of the Government Accountability Office (GAO) report, *World Trade Center, EPA's Most Recent Test and Clean Program Raises Concerns That Need to Be Addressed to Better Prepare for Indoor Contamination Following Disasters* (GAO-07-1091), September 2007, which did highlight significant OIG recommendations that remain unimplemented.

Recommendation 6-2: We recommend that the EPA Administrator ensure that EPA Region 2 implement a post-cleaning testing program to ensure that, in addition to asbestos, the indoor cleanup program has reduced residents' risk of exposure from all of the identified contaminants of potential concern to acceptable limits.

Status: The recommendation was not implemented, as noted in the GAO-07-1091 report.

Excerpts from OIG WTC report, p. 53: *Environmental experts told us that ideally a sampling plan should have been implemented that collected and analyzed samples starting at Ground Zero and radiating outward in concentric circles until the boundary of WTC contamination was determined. . . . Additionally, EPA should evaluate the potential health risks for pollutants of concern in workspaces and for geographic areas north of Canal Street, in Brooklyn, and any other areas where meteorological data show pollutants of concern may have been deposited.*

Excerpts from GAO report, pp. 5, 18: *However, EPA's program does not expand the boundaries of the cleanup to north of Canal Street and to Brooklyn. EPA reported it was unable to develop a method for distinguishing between normal urban dust and WTC dust; therefore, the agency reported it could not assess the extent of WTC contamination and had no basis for expanding the cleanup effort." . . . "Furthermore, EPA officials told us that some WTC dust was found immediately after the terrorist attacks in areas, including Brooklyn, that are outside the area eligible for its first and second program.*

Recommendation 6-3: We recommend that due to concerns over possible re-contamination of residences cleaned under the Indoor Air Residential Assistance program, EPA Administrator should ensure that EPA Region 2 treat buildings as a system and implement a post-cleaning verification program to ensure that residences cleaned by the program have not been re-contaminated.

Status: The recommendation was not implemented, as noted in the GAO-07-1091 report.

Excerpt from OIG WTC report, pp. 51 -52: Tests of indoor asbestos contamination have shown that the distribution of asbestos within indoor spaces is not consistent. Selective cleaning of apartments does not ensure that uncleaned residences or uncleaned objects in apartments are free of asbestos contamination. In the case of centralized heating, ventilation, and air conditioning (HVAC) systems, selective cleaning does not ensure that cleaned apartments will not be re-contaminated by uncleaned apartments through the HVAC system. Consequently, the cleaning of contaminated buildings should proceed by treating the building as a system. This systematic approach to cleaning would require that the exterior of the building be cleaned first before the building is re-occupied. All possible entrances for outside air should be sealed off and the building HVAC shut down during exterior cleaning. Once the exterior is cleaned, interior cleaning can begin. For buildings with centralized air and heating, the interior surfaces of supply ducts and return air plenums, fan housings, and filter housings should be cleaned. Filters should be removed, filter tracks cleaned, and new filters installed. The above actions are necessary to prevent uncleaned sub-parts of the HVAC system from re-contaminating the system. When cleaning individual rooms, each air supply or return register should be sealed to prevent re-entrainment of toxicants into the HVAC system.

Excerpt from GAO report, pp. 18-19: In addition, EPA's second program does not include sampling in HVACs or "inaccessible" locations within apartments and common areas, such as behind dishwashers, because EPA only included these efforts when it planned to determine the extent of contamination. The agency's second program plan notes that because EPA is not able to assess the extent of WTC contamination and because it is attempting to devote the maximum resources to testing requests, EPA will not test in these locations. Testing in such a restricted manner makes evaluating the adequacy of cleanup efforts difficult. Moreover, according to EPA officials, this program does not test workplaces because other federal agencies have procedures to address worker safety.

Recommendation 6-4: We recommend that the EPA Administrator ensure that EPA Region 2 work with the Federal Emergency Management Agency (FEMA) and Occupational Safety and Health Administration (OSHA) to assess whether the ongoing residential testing and cleaning program should be expanded to address potential contamination in workspaces in Lower Manhattan, or whether other measures need to be taken to ensure that workspaces are not contaminated with WTC dust.

Status: The recommendation was not implemented, as noted in the GAO-07-1091 report.

Excerpt from OIG WTC report, p. 52: EPA, FEMA, and New York City implemented a cleaning and testing program for residences but not workspaces. Some have complained about this limitation, noting that a program of comprehensive health protection would address indoor contamination in workspaces. The EPA Region 2 Assistant Administrator for WTC Recovery Operations told us that EPA had discussed this issue with OSHA, and that workers or employers could contact OSHA if they had concerns about possible asbestos contamination in their work places. Further, EPA indicated that OSHA was prepared to address any workplace issues brought to its attention.

Excerpt from GAO report, p. 19: According to EPA, its second program plan is “the result of ongoing efforts to respond to concerns of residents and workers.” Workers were concerned that workplaces in Lower Manhattan experienced the same contamination as residences. In its second program, EPA will test and clean common areas in commercial buildings, but only if an individual owner or manager of the property requests the service. EPA stated that employees who believe their working conditions are unsafe as a result of WTC dust may file a complaint with OSHA or request an evaluation by Health and Human Services’ (HHS’) National Institute of Occupational Safety and Health (NIOSH). Concerns remain, however, because these other agencies do not have authority to conduct cleanup in response to contaminant levels that exceed cleanup benchmarks. In addition, OSHA’s benchmarks are designed primarily to address airborne contamination, while EPA’s test and clean program is designed to address contamination in building spaces, whether the contamination is airborne or in settled dust. OSHA requires individual employers to adopt work practices to reduce employee exposure to airborne contaminants, whereas EPA’s test and clean program is designed to remove contaminants from affected spaces.

Estimate of Monetary Benefits

It is unknown what the long-term costs from increased health care may be versus the cost of an effective cleanup program.

Description of Non-Monetary Benefits

A well-designed and scientifically supported cleanup could provide reassurance to residents and workers that their residences and offices are safe, and prevent potential health effects from working and residing in potentially contaminated and unsafe areas. The report advises the Agency of steps EPA and subsequently the Department of Homeland Security can take to improve responding to challenges in environmental crises specifically as they relate to the WTC towers collapse.

Report Title: Implementation, Information, and Statutory Obstacles Impede Achievement of Environmental Results from EPA's Hardrock Mining Framework
Report No.: 2003-P-00010
Date Issued: 08/07/2003

Summary of Report and Objectives

OSWER suggested that we examine the issue of Superfund mega-sites due to potentially significant cost implications for the Superfund Trust Fund. Because of the high costs and complexities associated with cleaning up hardrock mining sites, and the common perception that they may account for a large proportion of future mega-sites, we conducted our initial evaluation on the Agency's National Hardrock Mining Framework. The primary goal of the Hardrock Mining Framework is to protect human health and the environment at proposed, active, and abandoned mine sites on both Federal and non-federally managed lands through appropriate and timely pollution prevention, control, and remediation.

Key Findings in Report

We found no evidence that the Hardrock Mining Framework contributed to environmental improvements or protections at specific hardrock mining sites. The nature of hardrock mining regulations, environmental laws and regulations, and the manner in which they are implemented present obstacles to what the Agency can realistically accomplish in preventing or minimizing the environmental impacts of hardrock mining. Also, EPA did not develop or communicate a strategy for implementing the Framework, management did not support it, and there was inadequate coordination within the Agency and between EPA and other agencies. Further, the Agency does not have current, accurate data on the extent of financial and environmental challenges posed by hardrock mining activities to assist management in determining appropriate strategies and actions to address existing and potential mining sites. EPA could consider policy and regulatory changes to help achieve the environmental goals of the Framework.

Unimplemented Recommendation

Recommendation 2-2: We recommend that the Acting Deputy Administrator direct the relevant EPA offices to develop effective implementation strategies that account for existing gaps in the Framework, lack of necessary coordination, and regulatory challenges. Specifically address:

- (a) Lack of a Framework implementation plan.
- (b) Lack of internal and external Agency coordination among key stakeholders in hardrock mining.
- (c) Lack of accountable and lead offices, Framework milestones, and performance measures.
- (d) Limits in EPA regulatory authority, including those posed by provisions or implementation of existing environmental statutes (e.g., Resource Conservation and Recovery Act) that may hinder progress in achieving environmental goals of the Framework at hardrock mining sites.

Status: Original planned completion date was 12/31/07. According to Past Due Notes in MATS, the remaining corrective action milestone has been delayed because the National Mining Team has taken the lead for the Deputy Administrator's new mining initiative and has been reconsidering this recommendation and corrective action as part of a larger mining strategy. OSWER staff discussed the Deputy Administrator's new mining initiative and its impact on the remaining corrective action milestone with the OIG on 08/07/07. A second meeting with the OIG was held on 02/12/08, and on 02/20/08 the Agency provided the OIG with additional information. A response from the OIG is pending.

Description of Non-Monetary Benefits

Without an adequate implementation strategy, management support, improved intra- and interagency coordination and cooperation, and strengthened EPA authorities, the environmental protection goals of the Hardrock Mining Framework will be difficult to achieve.

Report Title: Controlling and Abating Combined Sewer Overflows
Report No.: 2002-P-00012
Date Issued: 08/26/2002

Summary of Report and Objectives

Combined Sewer Overflows (CSOs) are the total discharges into water bodies of untreated domestic, commercial, industrial waste, wastewater, and storm water runoff which can adversely affect the health of humans, animals, and aquatic organisms, as well as cause beach closings and fishing and recreational restrictions from a Combined Sewer System. Since 1978, the number of CSO permittees has been reduced from approximately 1,300 to 859 as States and communities have implemented EPA's CSO Policy with varying degree of priority and success. To evaluate this issue on a national level, we sought to determine:

- What barriers, if any, need to be overcome in implementing the CSO policy?
- What are examples of better CSO practices?
- What levels of water quality or other outcomes are used to measure CSO policy accomplishments? What improvements in the level of water quality have been achieved?

Key Findings in Report

The Clean Water SRF is a major funding mechanism, but even its vast resources cannot meet the demand. Another key barrier that we noted is finding suitable sites for needed facilities.

Unimplemented Recommendations

Recommendation 5.1: We recommend that the Assistant Administrator for OW work with CSO permitting authorities and communities to assure they negotiate and establish the proper level of interim monitoring of CSO efforts to determine the impact of the project on water quality.

Status: The CSO Coordinator indicated that EPA would work with permitting authorities and enforcing authorities to require interim monitoring at the completion of individual projects. This recommendation is considered by the OIG as incomplete.

Recommendation 6.2: We recommend that the Assistant Administrator for OW provide a leadership role by encouraging States and communities to work with other stakeholders to develop appropriate water quality standards and, when appropriate, revise those standards.

Status: OW agreed to follow efforts that will support the development of appropriate water quality standards, including those for CSO-impacted waters that included the implementation of guidance for Ambient Water Quality Criteria for Bacteria. The guideline has been put on hold pending the resolution of several key issues with stakeholders. This recommendation was planned for completion by December 2007.

Description of Non-Monetary Benefits

Our recommendations to the Assistant Administrator for OW to improve the CSO program include developing a system to disseminate lessons learned and better practices about CSOs. Also, the OIG identified that EPA should work with CSO permitting authorities and communities to assure the performance of interim reviews regarding water quality, and take a leadership role in encouraging the use of watershed approaches and having States and communities work together to accomplish clean water.

Report Title: Surveys, Studies, Investigations, and Special Purpose Grants
Report No.: 2002-P-00005
Date Issued: 03/21/2002

Summary of Report and Objectives

As a result of a prior audit, *EPA's Competitive Practices for Assistance Awards*, issued in May 2001, we found that more than \$617 million of EPA's \$1.3 billion in discretionary assistance agreements was not awarded competitively under a program-specific Catalog of Federal Domestic Assistance (CFDA) number. Instead, these agreements were awarded under CFDA number 66.606 used by all program offices for miscellaneous projects. The purpose of this audit was to determine whether:

1. The results of the assistance agreements awarded under CFDA 66.606 are useful and contribute to protecting human health and the environment.
2. The same CFDA 66.606 assistance recipients were funded year after year.
3. CFDA 66.606 assistance agreements could have been awarded under a program-specific CFDA number.

Key Findings in Report

The OIG found that EPA did not measure whether the CFDA 66.606 assistance agreements it awarded achieved results that contribute to protecting human health and the environment. Further, EPA frequently funded the same assistance agreement recipients year after year. Also, EPA could have awarded many of the agreements under a program-specific CFDA number. Consequently, EPA had no assurance that money used for assistance agreements was awarded for projects that were useful in achieving EPA's mission of protecting human health and the environment.

Unimplemented Recommendations

Recommendation 2: We recommend that the Assistant Administrator for OARM develop clear policy on the use and purpose of amendments for assistance agreements so that personnel more carefully plan the intended results of the original agreements.

Status: This recommendation had been originally planned for completion by June 2003. OARM has resolved the major aspects of proper use of amendments for assistance agreements with the Competition Policy. OARM submitted Grants Policy Issuance 08-02 and Interagency Agreement Policy Issuance 08-02 on 02/01/08. OARM had planned to issue additional procedural guidance by 02/28/08 on the duration of assistance agreements that will outline the proper use of amendments for assistance agreements.

Recommendation 3: We recommend that the Assistant Administrator for OARM take action on all apparent conflicts of interest noted in the report.

Status: This recommendation had originally been planned for completion by the end of 2002. OARM has resolved the major aspects of proper use of amendments for assistance agreements with the Competition Policy. OARM had planned to issue additional procedural guidance by 02/28/08 on the duration of assistance agreements that will outline the proper use of amendments for assistance agreements.

Description of Non-Monetary Benefits

This report indicates that assistance agreements should have measurable results. The report explains in detail the benefits of having measurable results and that, without results, EPA could be subject to accusations of waste in managing assistance agreement funds.

Report Title: National Asian Pacific Center on Aging Defalcation
Report No.: 2001-S-00006
Date Issued: 03/29/2001

Summary of Report and Objectives

An audit was conducted jointly by the OIGs of EPA and the U.S. Department of Labor on selected National Asian Pacific Center on Aging (NAPCA) administrative accounts and transactions in response to complaints that NAPCA was misusing Federal grant monies by charging Federal grant programs for inappropriate or unallowable administrative activities.

Key Findings in Report

The report disclosed the embezzlement of \$1,802,546 of Federal grant funds from the Department of Labor and EPA programs. The embezzled funds could not be readily reconstructed to identify the specific amount of embezzled funds that pertained to each grantor agency or agreement. Therefore, the report requested EPA officials to coordinate with Department of Labor representatives and jointly demand repayment by the recipient of the embezzled funds.

Unimplemented Recommendation

We advised EPA of the embezzlement of \$1,802,546 by a NAPCA employee and recommended that EPA coordinate with Department of Labor officials to recover the embezzled funds, notify NAPCA that the embezzled funds are unallowable for Federal participation, and issue a demand for repayment by NAPCA.

Status: The final determination letter by the EPA dated 06/25/03 and the Department of Labor dated 07/08/03 upheld the amount of questioned costs totaling \$1,802,546. NAPCA immediately appealed. The amount was reduced to \$300,000 based upon “inability to pay” plus any amounts repaid by the employee who embezzled the funds. The U.S. Department of Justice agreed with the appeal decision. A deviation was issued on 09/14/04 settling on the \$300,000 and NAPCA was to repay to the Treasury.

Estimate of Monetary Benefits

We advised EPA of the embezzlement of \$1,802,546 by a NAPCA employee and recommended that EPA coordinate with Department of Labor officials to recover the embezzled funds.

Description of Non-Monetary Benefits

This report advised Agency officials of continuing cash management issues under the subject cooperative agreement.

Report Title: Compliance with Enforcement Instruments
Report No.: 2001-P-00006
Date Issued: 03/29/2001

Summary of Report and Objectives

The OIG audited facilities' compliance with enforcement instruments nationwide. Our objectives were to determine whether (1) regions adequately monitored facilities' compliance with enforcement instruments and considered further enforcement actions if companies did not comply, and (2) if OECA oversaw regional enforcement activities to ensure compliance.

Key Findings in Report

The OIG found that OECA's annual accomplishment reports did not accurately represent the actual environmental benefits resulting from enforcement activities. We also found that regions did not always adequately monitor compliance with enforcement instruments nor did they always consider further enforcement actions.

Unimplemented Recommendation

Recommendation 2-1: We recommend that the Acting Assistant Administrator for OECA establish a performance measure for ensuring that facilities under a formal enforcement action return to compliance in accordance with the schedule contained in the final order or decree.

Status: OECA developed a final draft performance measure related to monitoring of compliance with judicial consent decrees and submitted it to the Agency's Measures Review Board for approval. This recommendation was originally planned for completion by 03/31/03. At present, there is no date certain for when the Measures Review Board will conclude its review but OECA anticipates this will occur by 03/31/08. This approval will constitute the final step in establishing the performance measure that OECA committed to in response to the OIG report.

Description of Non-Monetary Benefits

This report advised Agency officials of steps that EPA can take to improve regional efforts to monitor violators' compliance with enforcement instruments. These steps will also help to ensure more accurate data for accomplishment reports.

Scope and Methodology

This review was conducted in response to a December 7, 2007, request from the House Committee on Oversight and Government Reform. The Committee asked for a list of recommendations made by the EPA OIG from January 1, 2001, to the present that have not been implemented by Agency officials or by Congress. The OIG was also asked to provide:

- a. A short summary of the unimplemented recommendation.
- b. The status of the unimplemented recommendation, including whether or not EPA agreed with the recommendation and an explanation for the delay in its implementation.
- c. An estimate of cost savings available from implementing the recommendation.
- d. A description of any other non-monetary benefits from implementing the recommendation.
- e. A short summary of the pertinent OIG investigation and its objectives.
- f. The key findings of the OIG investigation.
- g. The OIG report number and issue date.

A staff member of the Oversight Committee discussed the request with OIG staff on January 10, 2008, and further defined the scope of the request. The staff member said the Committee was interested in significant recommendations made to EPA that involved large dollar amounts, improvements to the Agency, or protection of public health and the environment. The staff member said that the Committee was not interested in recommendations made to EPA grantees. Therefore, the decision was made that Defense Contract Audit Agency audits, single audits, contract audits, and grant audits with no recommendations to EPA should be excluded. In addition, the staff member agreed that if the milestone due date for a recommendation is still in the future, the recommendation should not be included in the report to the Committee.

In accordance with EPA Order 2750, *Audit Management Process*, implementation of OIG report recommendations is tracked by EPA, which uses MATS for this purpose. OIG reports are listed in MATS as either “active” or “inactive.” A report listed as “active” has at least one recommendation for which corrective action has not been completed. If a report is listed as “inactive,” all corrective actions have been designated as completed.

The following steps were taken to identify reports with potential unimplemented recommendations.

1. A report list was generated of “active” reports in MATS issued from January 1, 2001, to June 1, 2007. The 6 months preceding the request were not included to allow for a standard 6-month time lag for implementing recommendations.
2. The report list from MATS was compared to a list of OIG in-house reports from the Inspector General Operations and Reporting (IGOR) system to eliminate from the review all reports that were not produced in-house by the OIG.

3. The MATS report list was also compared to Appendix 2, Reports Without Management Decision, in the September 30, 2007, EPA OIG Semiannual Report to Congress to ensure that all such reports with recommendations to EPA were included in the review.
4. A list of reports for review was created from the revised MATS active reports list.
5. All performance reports (coded "P") in the IGOR report list and not found in the MATS "active" report list were searched for in MATS to determine whether they were in MATS and coded "active." Six reports coded "active" were found in MATS but did not appear on the MATS "active" report list; the reason for this is unknown. The six additional "active" reports were added to the list.
6. Reports on the IGOR report list that did not appear in MATS as either "active" or "inactive" were obtained to determine whether they contained recommendations. It was determined that most did not, but one (2006-P-00038) had recommendations and was added to the list for review.
7. The MATS Administrator was asked to identify any additional reports with open recommendations not included on our list. The MATS Administrator identified one (2006-P-00022) that had been improperly designated as inactive in MATS.
8. An additional search was conducted in the OIG Performance Measurement and Results System and the Semiannual Reports to Congress to identify reports with high dollar amount findings and/or potential congressional interest not otherwise designated in MATS as "inactive" that should be added to the review. Two "inactive" reports were identified by this process for further review. Another "inactive" report was identified by the OIG Assistant Inspector General for Program Evaluation.

The following steps were taken to determine whether OIG reports identified in the process described above had significant unimplemented recommendations that should be included in the report to the Committee.

1. A report from MATS was obtained for each OIG report identified for review to determine whether corrective actions to address recommendations were designated as completed. Because there was a short timeframe for the review, data in MATS on corrective action completion was not audited. For the most part, data in MATS on status of recommendations was accepted, but in some cases more work was needed to determine the status of recommendations – for example, when information was missing from MATS.
2. Recommendations in MATS were compared to recommendations listed in the OIG reports to determine whether all recommendations for a particular report were listed in MATS. In some cases, they were not all listed, and further research had to be conducted to determine their status.
3. For corrective actions not completed, due dates were reviewed. If corrective action due dates were in the future, documentation of the original agreement on corrective actions (e.g., the Agency's response to the report and OIG close-out memo) was reviewed to determine if the future due date was part of the original agreement between the OIG and the Agency. If recommendations had corrective actions with initial agreed to due dates in the future, they were not included in the report to the Committee.
4. Since information in MATS was not always complete, additional sources of information were used, such as, working papers in the OIG AutoAudit system, followup documents

not in AutoAudit (such as Agency responses to reports and OIG close-out memos), interviews with OIG staff who worked on the report being reviewed, and interviews with Agency Audit Followup Coordinators.

5. Audit Followup Coordinators were asked to update MATS by February 8, 2008. After that date, MATS was searched for any change in status for each remaining recommendation on the list.
6. A write-up was prepared, which included the information requested by the Committee, for each identified unimplemented recommendation. Information in the write-ups was primarily obtained from MATS and the relevant OIG reports, but sometimes from additional sources.
7. The write-ups were reviewed to determine whether the recommendations were significant. A significant recommendation was defined as a recommendation that could have a material impact on the economy, efficiency, effectiveness, or integrity of an Agency program or operation in carrying out its mission (definitions for each are in the “Foreword” of this report).
8. Write-ups were sent for review to OIG staff who had worked on the reports with the unimplemented recommendations.

List of Reports with Unimplemented Recommendations

Report No.	Report Title	Issue Date
2007-P-00025	EPA Can Improve Its Oversight of Audit Followup	5/24/2007
2007-P-00016	Environmental Justice Concerns and Communication Problems Complicated Cleaning Up Ringwood Mines/Landfill Site	4/2/2007
2007-P-00013	Performance Track Could Improve Program Design and Management to Ensure Value	3/29/2007
2007-P-00012	EPA's Allowing States to Use Bonds to Meet Revolving Fund Match Requirements Reduces Funds Available for Water Projects	3/29/2007
2006-P-00038	Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist	9/27/2006
2006-P-00036	Promising Techniques Identified to Improve Drinking Water Laboratory Integrity and Reduce Public Health Risks	9/21/2006
2006-P-00027	EPA Could Improve Its Redistribution of Superfund Payments to Specific Sites	7/31/2006
2006-P-00022	EPA Needs to Better Implement Plan for Protecting Critical Infrastructure and Key Resources Used to Respond to Terrorist Attacks and Disasters	4/26/2006
2006-P-00017	EPA Can Improve Emissions Factors Development and Management	3/22/2006
2006-P-00016	EPA Can Better Implement Its Strategy for Managing Contaminated Sediments	3/15/2006
2006-P-00013	EPA Can Better Manage Superfund Resources	2/28/2006
2006-P-00001	Rulemaking on Solvent-Contaminated Industrial Wipes	10/4/2005
2005-P-00025	Sustained Commitment Needed to Further Advance Watershed Approach	9/21/2005
2005-P-00024	Limited Knowledge of the Universe of Regulated Entities Impedes EPA's Ability to Demonstrate Changes in Regulatory Compliance	9/19/2005
2005-P-00010	Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to Be Fully Realized	3/9/2005
2004-P-00033	EPA and States Not Making Sufficient Progress in Reducing Ozone Precursor Emissions in Some Major Metropolitan Areas	9/29/2004
2004-P-00030	EPA Needs to Reinforce Its National Pretreatment Program	9/28/2004
2004-P-00021	EPA Needs to Improve Tracking of National Petroleum Refinery Compliance Program Progress and Impacts	6/22/2004
2004-P-00005	Nationwide Identification of Hardrock Mining Sites	2/4/2004
2003-P-00012	EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement	8/21/2003
2003-P-00010	Implementation, Information, and Statutory Obstacles Impede Achievement of Environmental Results from EPA's Hardrock Mining Framework	8/7/2003
2002-P-00012	Controlling and Abating Combined Sewer Overflows	8/26/2002
2002-P-00005	Surveys, Studies, Investigations, and Special Purpose Grants	3/21/2002
2001-S-00006	National Asian Pacific Center on Aging Defalcation	3/29/2001
2001-P-00006	Compliance with Enforcement Instruments	3/29/2001

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