



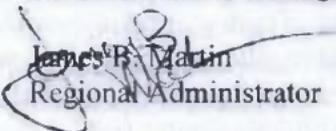
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
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AUG 12 2011

MEMORANDUM

SUBJECT: FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

FROM:  James B. Martin
Regional Administrator

TO: Lisa P. Jackson
Administrator

PURPOSE

In accordance with the Federal Managers' Financial Integrity Act (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for Region 8.

STATEMENT OF ASSURANCE

Region 8 has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, Region 8 complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within Region 8 are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

Additionally, in accordance with the American Recovery and Reinvestment Act (ARRA) of 2009 (Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
- All Recovery Act funds designated for the Region 8 have been used solely for the purpose of that program and, if applicable, were awarded and distributed in a prompt, fair, and reasonable manner;
- Region 8 is monitoring the risks and internal controls identified in EPA's Recovery Act Stewardship Plan and are in compliance with the Stewardship Plan.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

I certify that all appropriate staff completed the Agency's on-line Management Integrity Training on Internal Controls by July 1, 2011.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

In Region 8, our evaluation of internal and management controls involves assessing our major activities, identifying program vulnerabilities, and proposing corrective actions for identified problems. This is accomplished through the knowledge and experience of our staff and managers; through issues raised during program reviews and Office of the Inspector General (OIG) audits; and, with input from our customers and stakeholders. We continually work with our internal and external partners to identify risk through our mid-year reviews with States, regular joint inspections and workshare opportunities, and regular communication with all our stakeholders. The Region actively encourages all employees to report any potential waste or abuse to supervisors and to management. As the Regional Administrator (RA), I meet with individual employees on at least a semi-monthly basis and any employee would have the opportunity to report waste, fraud, abuse or mismanagement issues at that time. Through weekly meetings with my senior leadership team and bi-weekly meetings with the larger regional leadership team, management is able to discuss and monitor current issues and key pending actions. We have also used the bi-weekly regional leadership meeting, which includes all regional managers and supervisors, and regular staff meetings at every level, to ensure alignment with the Agency's strategic plan, action plans, and regular resource reviews to identify and resolve our problems. The Region has also created a regional email account to collect new and innovative ideas from regional personnel. This account allows any regional employee the opportunity to anonymously submit concerns and ideas for new and innovative ways to accomplish our mission in the most effective manner possible. This "bottom up" approach has improved communications and provided a forum for the program managers and staff to raise issues and concerns for action.

Region 8 has continued the development and implementation of key Program Review Strategies. Additional strategies are being developed by the programs throughout the year and are a critical programmatic tool to ensure effective resource management. Our Multi-Year Review Plan (Plan) is a comprehensive list of the formal and informal internal and management control reviews that are complete, are ongoing or are planned in the upcoming fiscal years. Some programs integrate their control reviews into business plans, effectively combining programmatic and administrative management integrity efforts. The Plan is also used by the Deputy Regional Administrator (DRA) and me to track quarterly progress in meeting our review commitments, addressing deficiencies and identifying future areas to review. The Region initiated a quarterly update process two years ago for senior regional managers to more closely monitor the efforts of the Region in completing these reviews and the correction of any identified deficiencies.

The NPM guidance provides the framework for the annual work planning, priority identification and resource allocation efforts of the Region. Throughout the NPM guidance development process, Regional managers and staff are provided frequent status updates and encouraged to provide input to their NPMs. Once the guidance documents are final, the Region develops a

comprehensive Performance Partnership Agreement (PPA) guidance package integrating NPM guidance with unique Regional priorities for our state and tribal partners to use while developing their annual grant workplans. This ensures that the Agency and our partners are closely aligned in implementing the critical environmental and human health protection requirements for which we are responsible.

The Region also uses a comprehensive performance measurement system that integrates the Agency-wide Annual Commitment System (ACS) measures and Key Performance Indicators with our Regional priority measures that were developed in consultation with our state and tribal partners. This system, called the Regional Annual Commitment System FY2011 (RAC11), has been in place for four years and provides me and Regional leadership with important programmatic performance information in a timely manner, allowing for strategic mid-course corrections when necessary. RAC11 essentially provides an annual workplan for the Region to effectively integrate national and Regional priorities, along with the key efforts of our state and tribal partners. This electronic reporting and tracking system reinforces the importance of meeting all our goals and objectives, and has allowed for efficient and frequent review of sensitive Regional activities.

RESULTS OF INTERNAL CONTROL REVIEWS

Over Programmatic Operations

Region 8 conducted numerous formal and informal internal and management control reviews in FY2011. The regional Multi-Year Review Plan, attachment C, contains the results of the many programmatic, financial and administrative review conducted over the past year as well as our upcoming reviews. This section explains some of the key reviews our programs completed and the results of our efforts.

Tribal Assistance Program (TAP) – Due to some tribal grantees not meeting EPA grant and financial management requirements, TAP works with various program offices to raise performance expectations for tribal grantees. These include detailed work plans, definitive deadlines, budget correlations and reporting of outcomes and accomplishments. A dedicated position (Regional Audit Coordinator) was established to focus on tribal financial management issues. This position works cooperatively within EPA programs and offices to identify tribal grantees that are experiencing difficulties with grant management and financial issues. As a result of the collaborative work of TAP and the regional Office of Technical and Management Services (TMS), the Lower Brule Sioux Tribe was taken off of high risk designation. The Region based this decision on the greatly improved procedures and controls related to the environmental programs being maintained by the Tribe (by both the environmental and financial staff members).

State Review Framework Reviews (SRF) - During FY2011, the Office of Enforcement, Compliance and Environmental Justice (ECEJ) conducted in-depth reviews of the air, water, and waste enforcement programs in the Colorado Department of Public Health and the Environment (CDPHE). These reviews and conclusions are documented in State Review Framework reports. These reports were provided to the CDPHE Executive Director and recommendations were

discussed. Recommendations for changes or improvements for the state programs are entered into the SRF Tracker database and periodically monitored for final/conclusive action. The SRF process has been revised and streamlined and our focus now is on improving state performance.

Continuity of Operations Plan (COOP) - In July 2010, an internal assessment of the Region's Continuity of Operations program was conducted. The Core-COOP Assessment Tool (CCAT) was used to assess elements of continuity as outlined in the Federal Continuity Directive 1. Region 8's self evaluation using this tool resulted in a score of 96%. Areas for improvement included the vital records and Devolution of Operations. These areas were addressed by:

- Providing training for all staff related to vital records, COOP and Devolution of Operations.
- Completing an annual update to the COOP Plan, updating the Pandemic Flu Annex and completing the Devolution of Operations Plans.
- Conducting a COOP Relocation and Site Familiarization Exercise which included a Devolution tabletop exercise with Region 9.
- Conducting a modified Devolution of Operations tabletop exercise with HQ.
- Finalizing the Devolution of Operations Plan with Regions 8, 9 and 10 as well as Headquarters. These plans have been signed by the EPA Administrator.

Regional Laboratory – The Region 8 Laboratory has submitted all necessary documentation to the National Environmental Lab Accreditation Conference (NELAC) for accreditation. All appropriate SOPs and internal policies have been reviewed, documented, and updated. These documents have been submitted to the State of Texas for review. An interim NELAC certification will be granted based on these documents. An on-site audit will follow in FY 2012.

Field Operations Group (FOG) - An assessment was conducted in FY2011 and the results were as follows:

- Assessment Goal: Conduct a "Gaps Analysis" using the national FOG Guidelines to identify potential vulnerabilities within each Program and Cross Programs (Region-wide). The Assessment focused on Region 8 Field Operations in the areas of sampling, field measurements, and inspections.
- Program Assessments were conducted for three offices and six programs: ECEJ's Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Program; Office of Partnerships and Regulatory Assistance (OPRA) (Pesticides and Groundwater/Underground Storage Tanks); TMS (Golden Lab, Health & Safety, and Records Center). The Lab assessment included two Office of Ecosystems Protection and Remediation (EPR) water quality projects.

Over Recovery Act Operations

Region 8 has the appropriate controls in place to ensure the proper management of funding received under ARRA.

In FY2011, OCFO led the effort of Policy Verification of the Recovery Act Stewardship Plan (RASP), which entailed visits to each of the Regions to review a sample of ARRA grants, contracts and interagency agreements for consistency with the RASP. OCFO reviewed a national sample of ARRA awards to determine if the awards were being managed in accordance with the

RASP, to collect best management practices in the management and oversight of ARRA awards, and to determine if there were additional inconsistencies with the RASP. During the A-123 review of ARRA in FY2010, Region 8 discovered several instances where the controls as laid out in the RASP were not being followed, but that the problem lay with the control as written in the RASP. Region 8 and OCFO co-led three national forums to review the inconsistencies in the RASP. Policy Verification of the RASP built upon this effort.

During Policy Verification of the RASP, OCFO and their contractor found several best practices and very few management issues. The four small issues found are all currently being corrected by the Program Offices and the Grants Office.

In addition to the review conducted on several Region 8 ARRA awards during Policy Verification, the Region conducted an A-123 review of ARRA awards. In accordance with established auditing standards, a random sample of ARRA awards was generated. The sample was based upon a universe of 59 awards and a confidence level of 95% and yielded a sample of 52 awards (47 grants, three contracts, and two Inter-Agency Agreements). The review of the high risk activities yielded no weaknesses or deficiencies. The review of the medium risk activities resulted in one deficiency. One post-award monitoring review was overdue, but will be conducted by the program this fiscal year.

There was also an audit on the ARRA awards in the Superfund Program conducted by EPA OIG, which did identify issues with the ARRA Buy American requirement by a Region 8 Response Action Contractor. These issues were resolved with a subcontractor settlement, and no further follow-up was necessary.

Over Financial Activities (OMB Circular A-123, Appendix A)

Internal Control reviews (e.g., A-123 reviews) were conducted over the below-stated functional areas in accordance with the FY 2011 Guidance for Conducting A-123 Internal Control Reviews for Financial Activities dated January 28, 2011, issued by Office of the Chief Financial Officer (OCFO).

- 1) *Superfund State Cost Share* – identified as a significant deficiency by the agency.
- 2) *ARRA* – due to the increased scrutiny over ARRA funding and requirements for increased transparency, in addition to OCFO direction, an A-123 review was conducted during FY2011. High risk and specifically identified medium risk areas identified in the ARRA Stewardship Plan formed the basis for this review.
- 3) *Undistributed Superfund Costs (ZZ)* – An A-123 review was completed during FY 2011 in response to OIG recommendations, at OCFO direction and based on prior year analyses conducted by FMP staff that identified ZZ costs that were appropriately chargeable to a site specific identifier.
- 4) *Unliquidated Obligations (ULOs)* – A review of active and inactive Region 8 unliquidated obligations reflected in the Agency ULO database, contracts, grants, travel and miscellaneous obligations was conducted by FMP staff. Directions by OCFO, as well as on-going Congressional scrutiny were the basis for this review.

In addition to the above mentioned A-123 internal control reviews, a financial quality assurance review was conducted by FMP staff for Region 8 property. Property has been identified as high risk for Region 8 based on previous financial quality assurance review results.

FMP utilized OCFO guidance, direction, training, and examples to complete the A-123 reviews discussed in Section 3 above. In addition, a national workgroup of Agency Financial Management Officers was convened to discuss A-123 review strategies, workplans, templates, and results. FMP staff also participated in A-123 Open Forum conference calls conducted by OCFO/OFM. The Agency's Financial Quality Assurance Review Manual was used as a tool in conducting the review of Property.

The basis of our control environment is a common sense approach that emphasizes every employee's responsibility for sustaining effective internal controls. We have adopted the philosophy of integrating management integrity into daily program operations and simplifying the overall reporting and tracking requirements as much as possible and appropriate. This philosophy is communicated and reinforced through our policies, delegations, training, practices, and day-to-day actions.

To ensure and maintain a positive control environment, we have addressed each of the five areas included in the Government Accountability Office (GAO) Internal Control Evaluation Checklist as described in the attachments provided.

I certify that the documents provided to the Cincinnati Finance Center (CFC) by my staff comply with the A-123 review requested by OCFO. See attachments H-L.

CURRENT WEAKNESSES

Region 8 does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provided feedback to Lead Region Coordinators on weaknesses for which other offices/regions have the lead.

Through our comprehensive annual management integrity processes we identified the following areas of concern for the Region. These issues are not new and are being addressed by the Region and do not currently rise to the level of an Agency weakness or deficiency.

State Implementation Plan (SIP) Backlog – On September 9, 2009, WildEarth Guardians sued EPA on our failure to act on 35 backlogged SIPs. A February 1, 2010, consent decree and settlement agreement established deadlines for EPA action on these backlogged SIPs. Subsequently, the litigant filed a May 26, 2010, lawsuit for four additional backlogged SIPs. In addition to backlogged SIPs, Region 8 received lawsuits through June 2011, for EPA's inaction on two interstate transport SIPs, six infrastructure SIPs, a state malfunction provision, two attainment demonstrations, four newly backlogged SIPs, and four Regional Haze SIPs. Region 8 also received three Notices of Intent to Sue.

Due to additional lawsuits, our SIP backlog continues to grow but at a slower pace than in the past. In addition to acting on backlogged SIPs and meeting all court-ordered deadlines, staff

continues to work on other mandatory base program requirements (such as National Ambient Air Quality Standards (NAAQS) designations), exceptional events, potential Federal Implementation Plans, and providing technical guidance and consultation to states on general SIP development for Regional Haze and nonattainment areas.

For FY 2011, the filing of SIP related lawsuits slowed in Region 8, but did not cease. The results to date of implementing the SIP Backlog Action Plan and the additional actions described above have been evaluated by the Air Program Director and the OPRA ARA. We determined that resources in Regional Counsel were still not sufficient to keep up with the demand for the Air Program's actions on backlogged SIPs, Regional Haze SIPs with newly established consent decree deadlines, and on new SIP submittals (so they do not become backlogged).

Property Management – Property management remains a challenge because some equipment acquisitions do not receive proper approval by property management either through the electronic procurement system or through the use of purchase cards. An additional challenge is the tracking of property throughout the region. An aggressive property management and training initiative was launched this year to obtain better accounting for regional property. The Infrastructure Program will meet with the Financial Management Unit, and other involved Region 8 programs, to review the FY2011 audit report, and to discuss recommendations and corrective actions to be implemented in the coming reporting period.

Drinking Water Laboratory Certification Program – Based on a TMS assessment of the current state of the Region 8 Safe Drinking Water Act Laboratory Certification Program, as well as an Office of Groundwater and Drinking Water (OGWDW) audit of the program conducted on April 29-30, 2010, significant vulnerabilities were identified with the Region's Drinking Water Certification Program. Potential program vulnerabilities include state oversight triennial and annual reviews of laboratories and expired or uncertified labs for drinking water in Wyoming and Indian country. A Region 8 corrective action plan was created, which required resources to eliminate the backlog of the drinking water audits and to sustain the program for the foreseeable future. Currently under consideration by OPRA and TMS SLT members is the allocation of the agreed upon resources. The Drinking Water Laboratory Certification Program can neither address all audit findings, nor meet all technical responses and consultations without additional resources.

NEW OR EMERGING ISSUES

Cleanup for the Clark Fork River Operable Unit – Under a 2008 Consent Decree, the state of Montana received \$123 million from Atlantic Richfield for state-lead cleanup and restoration of the Clark Fork River Operable Unit of the Milltown Reservoir/Clark Fork River Superfund Site. The Montana Department of Environmental Quality (MDEQ) and Department of Justice Natural Resource Damage Program (NRDP), with additional oversight from the EPA and National Parks Service (NPS) for cleanup activities at the Grant-Kohrs Ranch, are designing the remediation and restoration work to be done along 43 miles of the Clark Fork River from Warm Springs in Anaconda/Deer Lodge County downstream to Garrison in Powell County.

Cleanup was supposed to start in 2009 and was expected to take 10-12 years. Region 8's Montana Operations Office (MOO) worked with MDEQ and NRDP to identify and schedule milestones and targets for the cleanup effort for the Superfund Comprehensive Accomplishments Plan (SCAP). MDEQ has failed to meet previously-identified targets or even provide a schedule of planned activities to EPA. Although delays in getting remediation underway and the slow pace of cleanup (four residential yards cleaned up in three years despite a \$123-million bank account) may have resulted in MDEQ and NRDP account increases due to accrued interest, EPA is concerned about getting remediation accomplished and the possible long-term fiscal impacts of the delay.

Field Operations Group – Assessment findings indicate there are Region-wide issues centered on a lack of, or inconsistent documentation for Field Activities, Personnel Training, Document Control, Records Management, Field Equipment Management/Use, and Internal Audits/Corrective Actions. Key Assessment findings include:

1. **Documentation of Field Activities:** lack of documentation of Region 8 field activities, including use of SOPs, and creating & maintaining project files.
2. **Documentation of Personnel Training:** inconsistent procedures to manage staff training records and document on-the-job training.
3. **Document Control:** inconsistent or lack of formally approved Region 8 policies, Standard Operating Procedures, guidance, etc., pertaining to environmental sampling. Such documents would have unique control identifiers/numbers.
4. **Records Management:** inconsistent understanding or implementation of what a “record” is (i.e. field logbook entries, completed chain of custody forms, photographs, maps, project files); where they should be stored; and how they should be maintained.
5. **Management & Documentation of Field Equipment:** inconsistent documentation of field equipment calibrations; no consistent approach to uniquely identify equipment or manage for check-in and check-out.

Quality Assurance Program Plans (QAPPS) – The Region 8 Quality Assurance (QA) Program is developing protocols for the delegation of approval authority for QAPPS to employees outside of the QA Program. Once these procedures are developed, regional managers and staff will determine the appropriate staff to receive the training and delegation.

Content Management – This is the set of processes and technologies that support the collection, management and publication of information in any form or medium. The greatest weakness identified in Region 8 was the lack of business processes in order to manage content life cycle. A Regional Content Management workgroup needs to be formed in order to identify regional content management business needs. In FY2012, proper attention will be given to define business needs and processes.

Region 8 Indian Country Resource Analysis – The Office of Enforcement and Compliance Assurances' (OECA) FY2011 NPM Guidance sets “specific Indian Country program performance expectations” and directs EPA to “focus on protecting vulnerable communities.” In response, Region 8 Technical Enforcement Programs reviewed the FY2010 level of effort applied in Indian Country (Full-Time Equivalent (FTE), travel), and then identified the highest

priority unmet needs. The review resulted in a list of priority needs in Indian Country, the resources required, as well as a projection of expected outputs and outcomes. The analysis will continue in FY2011-2012.

At this time, Region 8 does not believe the issues described rise to the level of a material or Agency weakness. We will continue to monitor the issue(s) and report as appropriate.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

Data Quality and Databases – The Office of Ecosystems Protection and Remediation (EPR) Data Improvement Project continues to make progress. A student intern who will assist primarily with Phase 3 - Database Design, Developmental and Population, was added to the team project in 2010. For Phase 3 and Phase 4 - User Interface Development, on the Geographic Information Systems (GIS) spatial side, three systems have been set up for user interface: NEPAssist, ERAssist, and the Libby Asbestos Property Status. On the non-spatial side for Phase 3, Region 8 began a pilot to manage data for St. Vrain, Colorado Watershed. In FY2011, two FTE were assigned to EPR to better coordinate and implement GIS projects for the Region.

Grants Management – The Office of Ecosystems Protection and Remediation (EPR) has made significant progress in grants management and accountability. Specifically, the Ecosystems Protection Program developed Unliquidated Obligations reports using the Quick Report system designed by Region 2. These reports help Ecosystems Protection (EP) Project Officers review unliquidated obligations for follow-up with grantees and provide a tool for communicating with grantees when no draw downs have occurred. In addition, Programmatic baseline monitoring is reviewed every three months and reports sent to supervisors for their use in communicating with staff to maintain a 90% compliance rate. EP has developed clear roles and responsibilities among administrative project officers and technical advisors and will implement this as a pilot this year. In addition, EPR has added additional staff to the EP program to assist in the administration and management of grants.

Flooding at Rocky Boy's Indian Reservation, MT – In 2010, Region 8 identified flooding at the Rocky Boy's Indian Reservation as a new or emerging issue. Region 8 worked closely with Federal Emergency Management Agency (FEMA) throughout the summer of 2010 to correct drinking water damage. The waterline has been rebuilt in a location less susceptible to flooding. Service was fully restored in December 2010. Since corrective actions have been completed, this issue can be considered closed.

NPDES Permit Backlog – Progress is being made in the Montana National Pollution Discharge Elimination System (NPDES) program. As of December 31, 2010, the percentage of current Montana major, minor, and general permits was 83%. Montana has implemented a five-year plan to eliminate the permit backlog. Montana has also implemented a three phased NPDES rule revision process. The first phase is nearly complete. The revisions will bring the Montana rules up-to-date with the Federal rules. MDEQ completed an internal efficiency review and as a result has proposed a plan to EPA that will eliminate the backlog by the end of FY2014. This plan also provides for the reissuance of permits about to expire so that the backlog does not re-occur. EPA

has approved MDEQ's backlog reduction plan. MDEQ continues to work on the draft permit writer's manual and other program improvements.

Grants Management: Crow Tribe, MT – The Crow Tribe is deemed a high risk grantee for management of EPA grants. The designation originated as a result of an IG audit in March 2002. The accounting and administrative concerns have been addressed successfully and continue to be conducted with financial integrity. Programmatic concerns such as lack of internal controls and staff turnover continue to be a problem. To help address weak internal controls, staff negotiates clear work plan commitments and deliverables, requires quarterly progress reporting, approve financial draw downs, provide on-going technical support, and conduct regular site visits.

CWA Total Maximum Daily Load (TMDL) Program – Region 8 is currently under court order to complete TMDLs for all waterbodies listed on Montana's 1996 Section 303(d) list by December 31, 2012. Region 8 has been working collaboratively with MDEQ to complete these TMDLs, and fully anticipate meeting the 2012 deadline. At the same time, Region 8 is working with MDEQ, the Plaintiffs, and the Department of Justice (DOJ) to draft an amendment to the court order to reflect a list-neutral, watershed based approach that will result in a new list of waterbodies to be addressed by December 31, 2014. We anticipate that we will be approaching the court with an amended court order in August 2011. Montana MDEQ completed 98 TMDLs in FY 2010. So far in FY 2011, MDEQ has completed 70 TMDLs and predicts that they will complete a total of 200 by the end of the fiscal year. The Region will need to evaluate the outcome of the plaintiff negotiations to determine the TMDL workload for the next two years.

Human Resources – As part of the Region's One EPA action plan, we have begun a series of training for supervisors called the Supervisors Support Series. This series focuses on those critical areas for supervisors to address problem performance, coaching resources, etc. Also, jointly with American Federal of Government Employees (AFGE) Local 3607, we are also offering a "30 Minute Tune-Up" training series for employees. These "bite-sized" sessions give employees the basics on those areas where we tend to see problems, like credit card use; use of travel comp time off; government vehicles, etc. Our goal is to see fewer incidents of misuse related to these areas.

Fiscal Management – The Fiscal Management and Planning Program (FMP) effectively coordinated the Region's "End of Year Process", by communicating guidance, clarifying policies, and providing assistance to key staff. This process assists in ensuring effective and efficient utilization of resources. All guidance, deadlines, and meeting minutes concerning the End of Year Process are posted on FMP's intra-net site.

CLOSING

Should your staff have any questions, please have them contact Patrice Kortuem, Region 8 Comptroller at 303-312-6150 and kortuem.patrice@epa.gov, or Ben Bielenberg, Region 8 Management Integrity Advisor, at 303-312-6771 and bielenberg.ben@epa.gov.

ATTACHMENTS

Attachment B Program Review Strategies
Attachment C Multi-Year Program Review
Attachment H FY 2011 Control Environment Description Template
Attachment I Recovery Act Stewardship Plan
Attachment J FY 2011 Internal Controls Over Financial Activities, Unliquidated Obligations
Attachment K FY 2011 Internal Controls Over Financial Activities, SSC
Attachment L FY 2010 Internal Controls Over Financial Activities, SSID ZZ

cc: Annette Morant, OCFO
Aileen Atcherson, OCFO
Patrick Gilbride, OIG



Correspondence Management System

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Citizen Information

Citizen/Originator: Hays, Marilyn

Organization: Environmental Protection Agency

Address: N/A

Brooks, Karl

Organization: EPA Region 7

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Constituent: N/A

Committee: N/A

Sub-Committee: N/A

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Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OCFO	Aug 16, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Control Created	Aug 16, 2011
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 16, 2011



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

AUG 15 2011

OFFICE OF
REGIONAL ADMINISTRATOR

MEMORANDUM

SUBJECT: FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

FROM: Karl Brooks

TO: Lisa P. Jackson
Administrator

PURPOSE

In accordance with the *Federal Managers' Financial Integrity Act* (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for Region 7.

STATEMENT OF ASSURANCE

Under my leadership, Region 7 has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, Region 7 complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within Region 7 are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

Additionally, in accordance with the American Recovery and Reinvestment Act of 2009 (Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
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- Region 7 is monitoring the risks and internal controls identified in EPA's Recovery Act Stewardship Plan and is in compliance with the Stewardship Plan.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

A significant majority of Region 7's Senior Executive Service employees, managers and supervisors, divisional FMFIA points of contact and the Management Integrity Advisor completed the Agency's on-line "Management Integrity Training on Internal Controls" by the due date, July 1, 2011. The remaining two managers completed the training when they returned to the office on July 11, 2011.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

The process used for this year's Federal Managers' Financial Integrity Act evaluation followed the Agency's guidance which included the submission of sub-assurance letters, program review strategies and a multiyear plan from Division and Office Directors. Each organization used a variety of methods and sources of information to reach their conclusions. These included: reviewing GAO, OIG and OMB material weakness candidates and a discussion of these documents; reviewing divisional operating plans, policies, guidance, procedures and performance measures; conducting inventories of activities and functions; using the "Internal Control Evaluation Checklist" as a tool to evaluate internal control procedures and processes; obtaining feedback from internal and external customers; and having managers and employees discuss this process to identify any areas within their operation which might be subject to waste, fraud, abuse, and mismanagement. All Region 7 managers are personally involved in developing, maintaining and overseeing effective internal controls. The Region monitors and manages financial resources by utilizing various business intelligence reports. Other data systems are used to monitor and oversee program inspections and grants management as well as to ensure quality data collection necessary in managing environmental programs. Periodic reviews are made of travel, overtime and extramural programs. All employees are held accountable for adhering to the established organizational values.

National Program Manager Program Review Strategies have been reviewed to determine which Program Review Strategies should be developed for Region 7. Divisions within Region 7 prepare operating plans utilizing the NPM guidance as its framework. These plans outline written strategies, policies, guidance, procedures and performance measures. They include programs' commitment to accomplishing the Agency's mission, while carrying out program authority and responsibilities. Divisional management routinely review program performance against annual goals and commitments, and periodic reviews are conducted to ensure that program activities are consistent with established policies, procedures, guidance and strategies as defined in operating plans.

Region 7's program review strategies and multiyear plans are accessible at the following link <http://r7atwork.r07.epa.gov/intranet/oldr7/moneymatters/audit/fmfia.html>. These strategies are based on a combination of review of the strategies prepared by the National Program Managers, human resources policies and practices, material weaknesses identified by GAO, OIG and OMB, current regional operating plans, and the various programs for which Region 7 is responsible. Region 7's operating plans identify performance measures, goals, written strategies, policies, guidance, and procedures for each division and branch. These plans include the strategies, organization, resources and measures used to carry out the Agency's mission. Each year, the Region's program review strategies and multiyear plans are reviewed and updated to reflect changes in the strategies and modified to reflect additional areas for review and participants in the reviews.

During FY 2011, Region 7 utilized many methods in working with internal and external partners to identify risk. Region 7's management team is responsible for understanding and communicating to staff the Agency's and Region's goals and commitments, and their role in assisting in the achievement of those goals and commitments. Participation in internal meetings (Senior Staff, divisional management team, etc.) assist in communication of all issues impacting the performance of our work, and information from these activities is communicated to staff through all hands meetings, emails, memos, and other forms of communication.

In FY 2011, Region 7 instituted a practice of meeting with our significant internal and external clients to identify best practices regarding performance or identify areas of risk. The results of these client

discussions will be used to inform future decisions regarding resource needs, capabilities, capacity and continuity of quality service.

Region 7 staff and management work with the Region 7 risk assessors and with the Agency for Toxic Substances and Disease Registry to identify, control, and remediate, as appropriate, potential risks to human health and the environment at hazardous waste sites and during emergency response activities. Various methodologies are used to identify these risks and to determine the relative risk rankings in order to mitigate exposure to individuals or the environment. During emergency response activities, Region 7 works with numerous federal and state agencies such as Federal Emergency Management Agency, Corps of Engineers, and state natural resource agencies such as Missouri Department of Natural Resources, Nebraska Department of Environmental Quality and Nebraska Department of Health and Senior Services to ensure the activities taking place during the response are in compliance with the regulatory authorities of each organization and that activities are coordinated so as to leverage the use of the limited resources (funds and staff) available to respond to the natural or man-made disaster.

In order to more fully identify risks, Region 7 also relies on National Program Managers (NPM) Guidance and the lead region process. Participation on numerous conference calls and meetings between the National Program Managers and the ten regions ensure effective communication and participation in the development of regional and national program priorities. We also take advantage of these calls as opportunities for discussion of potential risks identified by other participants. Many of these calls involved discussions regarding the potential risk due to national/regional natural or man-made disasters, early identification of emerging issues, and normal ongoing program issues during FY 2011.

RESULTS OF INTERNAL CONTROL REVIEWS

Over Programmatic Operations

Region 7's internal control reviews conducted during FY 2011 are identified in the Program Review Strategies and Multiyear Plans available at the following link: <http://r7atwork.r07.epa.gov/intranet/oldr7/moneymatters/audit/fmfta.html>. Region 7 has implemented a rigorous approach to compliance with FMFIA as it relates to its programmatic, financial and administrative work to protect programs from fraud, waste, abuse, and mismanagement. This includes development, review, and approval of fiscal year operating plans for achieving programmatic and administrative goals and objectives. Progress toward meeting programmatic and administrative goals is measured in a number of different ways, including quarterly reporting on accomplishments; monthly review of financial measures such as travel and contracts budgets; monthly purchase card log reviews; monthly grants close out monitoring, and others. Both internal and external reviews were conducted on Region 7 processes, properties and assets in FY 2011.

The Office of Inspector General continues to work with the Office of Chief Financial Officer to address the accuracy of the billing process for Superfund State Contracts. Within Region 7 we determined that the current process does not meet the Region's need to adequately insure that the information being provided to the Cincinnati Finance Center or the billings provided to the states, is accurate and complete. Therefore, a much larger group, including representatives from regional counsel, finance and program management and staff, will be convened to identify roles and responsibilities for managing SSCs within the region.

Based on state program reviews, the Superfund site specific cost reallocations were determined to have potential for internal control issues. Staff changes within the various states and at the Las Vegas Finance Center resulted in inaccurate reporting of site specific costs. In an effort to decrease the potential for these inaccuracies, a list of each state's sites and operable unit numbers as listed in the approved work plan, were provided to both the programmatic staff and the administrative staff. A copy of each state's approved site list was also provided to the LVFC. Any sites listed on the request for payment and not on the list of approved sites will be identified and notification will be provided to the appropriate state programmatic staff prior to the actual submittal of the payment request by the state to the LVFC. These sites will either be added to the approved work plan or removed from the payment request document.

Region 7 has a process in place to ensure proper management and oversight of its competitive grant programs. This process includes internal and independent reviews of grant applications. This process is closely monitored, and each reviewer is required to sign a conflict of interest statement to ensure an unbiased approach. External program reviews are conducted of grant recipients and state programs on a routine basis. Region 7 conforms to grants management guidance and the regional program review strategy in completing this work.

During FY 2011, Region 7 identified a weakness in its internal process and procedures for implementing the EJ Small Grant Program in regards to the assignment of duties and responsibilities within the region. In March 2011, Region 7 created an EJ Grants Reference Manual documenting processes and procedures. The manual outlines the steps, policy and guidance necessary for the successful implementation of the EJ Small Grants program.

In light of recent and increasing case law in which judges have imposed sanctions against parties for their failure to adequately preserve evidence, in FY11, Region 7 conducted a review of the litigation hold strategy in Region 7 and identified opportunities to strengthen our procedures. These procedures have been implemented and all attorneys in the Region have received training on the procedures. We also conducted a review of the case tracking system created approximately two years for use as a management tool and determined that the system was not being fully utilized. As a result, we have made modifications to the system and the procedures for inputting data into the system to enhance its utility.

The Region maintains an intranet site for internal information-sharing as well as an internet site to communicate information to the public. Region 7 programs can use these sites to create links to program-specific information. In FY 2011, we conducted a review of the information available through both the regional intranet and internet sites. We found opportunities to improve and update information available internally as well as externally, and are working to improve our use of these communication tools.

OCFO conducted a compliance review of Region 7's management of internal controls on March 28 and 29, 2011. This review involved extensive interviews of programmatic and administrative staff, file review and two training sessions; one for management and one specifically for divisional FMFIA points of contact. This was followed by required on-line training. A subsequent report from OCFO indicated that Region 7 is in full compliance with FMFIA requirements.

Over Recovery Act Operations

Region 7 utilizes the following routine monitoring procedures for required reporting of ARRA funds:

- Project Officers (POs) review the quarterly 1512 reports and the quarterly programmatic reports. The HQ program office provides the regions with a checklist to confirm particular parts of the report. Each PO was trained initially on how to review the reports and any new information is provided to PO via email or in-person training.
- Each PO checks draw downs monthly in IFMS to ensure that grantees are drawing on funds appropriately. They follow up with grantees as needed.
- Monthly grants meetings are held where the status of the ARRA grants are discussed and any issues are raised.
- The HQ program holds monthly grants conference calls to provide information. This information is sent to all POs.
- POs remain in contact with the grantee in between the quarterly reporting periods through phone calls and emails.
- Validations of reports are conducted at HQ level and through OMB for particular fields/activities. Supervisors review these reports.

Region 7 continues to implement internal control review activities over ARRA contracts and grants. Various teams throughout the region review each state's ARRA activities biannually to ensure compliance with all federal requirements. The reviews are held on-site at state offices, with review of the financial, programmatic and technical aspects of the program. In some cases, Region 7 employees have participated in on-site reviews at ARRA sub-recipient locations. Staff monitor utilization of ARRA funds and continuously respond to loanee/consultant requests for "Buy American" waiver questions, as well as other concerns.

Over Financial Activities (OMB Circular A-123, Appendix A)

Unliquidated Obligations (ULO) Review

This review assessed current processes, policies and procedures. New in FY 2011 was a ULO Desktop Tool utilized by the divisional contacts to conduct periodic reviews of the ULOs. Though no material weaknesses were observed through the review, the process allowed the region to identify efficiencies to improve its management of unliquidated obligations. Some of these efficiencies include updating standard operating procedures, developing 30 day ULO review processes for grants and contracts and improving the employee training program. Additionally, the ULO review uncovered a few discrepancies and processing issues within IFMS, Gov Trip and the ULO certification tool. These issues did not affect the outcomes of the review but did create minor difficulties in completing the research.

Superfund State Contract Process

Region 7's Policy and Management Division (PLMG) review staff conducted an A-123 review of Region 7's quarterly SSC accrual spreadsheet process. Region 7's 2nd quarter FY 2011 SSC accrual spreadsheet contained 36 SSC sites. This universe included active and administratively closed SSCs. For the A-123 review, a total of 9 sites (25% of the total universe) were randomly selected for review. PLMG's review staff met with and/or held discussions with the Financial Management and Services Section (FMSS) staff, the Superfund Division (SUPR) staff, and the Cincinnati Finance Center (CFC) staff; analyzed and reviewed FMSS and SUPR documentation; and reviewed CERCLIS and IFMS data.

PLMG staff reviewed the FMSS and SUPR SSC records to ensure proper documentation was available to support the "Site Name", "Site ID", "Site Amount", "State Share", and "SSC Credit Additions Non Cashout" (columns A through H) on the quarterly SSC accrual spreadsheet. For the sample selection, the financial data listed on Columns A through H on the SSC accrual spreadsheet agreed with the information contained in FMSS and SUPR SSC files.

PLMG's review staff also evaluated the completeness of the SSC accrual spreadsheet, to determine if the total universe of sites and SSCs was accurately reflected. FMSS adds new sites to the spreadsheet upon the proper execution of a new SSC. PLMG staff reviewed all FMSS and SUPR SSC records, along with evaluating a CERCLIS remedial action by site, planned and actual report. Two additional SSCs were identified. One new SSC was identified through the comparison FMSS and SUPR files, and one new SSC identified through the comparison of the CERCLIS report and the SSC spreadsheet. Region 7 notified CFC of these two SSCs.

Recovery Act Stewardship Plan

Region 7 continued to monitor the risks and internal controls identified in EPA's Recovery Act Stewardship Plan throughout FY 2011. OCFO conducted a Policy Verification Review of Region 7's implementation of EPA's November 1, 2010 Recovery Act Stewardship Plan (RASP) and accountability to the stated goals of ARRA. OCFO selected a sample of 5 grants and 3 contracts to review. Region 7's A-123 review team utilized the OCFO RASP checklist to assess the remaining 36 ARRA funded grants. Region 7's review team replicated OCFO's review methodology to further ensure the propriety and completeness of regional implementation of EPA's RASP. Also, Region 7 reviewers evaluated whether Region 7 had taken steps to minimize the risk of improperly charging payroll to ARRA accounts. There were no significant or material weaknesses uncovered, however there were opportunities noted to improve file documentation.

Superfund Site Identifier ZZ Accounts

Region 7 has an established Standard Operating Procedure (SOP) for Annually Reviewing ZZ Costs. The documented SOP was developed to verify on an annual basis that ZZ expenditures were assigned the correct action codes and to reassign, where appropriate, those ZZ expenditures that should be charged to a site-specific identifier (SSID).

The responsibility for conducting the annual review is shared by Region 7 personnel from the Resources and Financial Management Branch (RFMB) and the Superfund Division (SUPR), along with personnel from the applicable Shared Service Center. In FY 2011, many expenses originally charged to ZZ in FY 2010, had already been reassigned prior to the formal initiation of the annual review. Due to the proactive steps, Region 7's formal ZZ review involved an assessment and validation of \$2,660,174, resulting from 6 cooperative agreements and 8 contracts.

PLMG's A-123 review focused on assessing the accuracy of validation efforts and compliance against established procedures and guidance for 6 cooperative agreements and 2 contracts. This sample of 6 cooperative agreements and 2 sampled contracts represent \$2,564,554, or 96%, of the total ZZ expenses at the time of the initiation of the annual review. Although no procedural problems or internal control weaknesses have been identified, this review is still in process.

CURRENT WEAKNESSES

Region 7 does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provided feedback to Lead Regions on weaknesses for which other offices/regions have the lead.

MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, AND OMB

Region 7 does not have the lead for any of EPA's new management challenges or proposed weaknesses.

NEW OR EMERGING ISSUES

Region 7 is tentatively scheduled to move offices in FY 2012. In anticipation of this move and the changes it will bring, Region 7 will review its communication tools and practices and adjust or upgrade these, as appropriate, to minimize impact on continuity of service provided by the Region to its clients.

Although we are currently in compliance with the Recovery Act Stewardship plan, maintaining this compliance throughout the year will still remain a challenge in the upcoming year. The ARRA funding for programs is at a much higher level than the funding provided by the annual appropriations. Also, the ARRA requires higher levels of EPA oversight, state reporting and accountability than the grants funded by regular appropriations. This higher level of grant oversight for ARRA grants, in addition to grants funded by regular appropriations will be a strain on existing staffing resources.

A potential weakness the agency should be closely examining is in the area of Position Management. OIG had identified Position Management as a problem within EPA in earlier reports and in third quarter FY 2011, the agency issued a Workforce Planning Guide and criteria for use in reporting out on FTE allocations, their distribution among agency goals and alignment with agency and regional priorities. The Agency's purpose for the Workforce Planning Guide will be to provide strategy for forecasting anticipated FTE needs by occupation series, alleviate problems associated with attrition and skill gaps, and improve strategic recruitment. Reporting will be done annually and data comparisons made on a quarterly basis. Position Management ties in with hiring strategies and human capital initiatives at the local and national levels. Caution should be used in making resource allocations down to the Regional level based solely on the data obtained through the Workforce Planning Guide template, as the base line data is not perceived to be 100% accurate. The agency should anticipate that this system will take several years to develop before it is an effective planning tool and that it should be used only as that--a planning tool. It should not become the sole method by which FTE are allocated, as priorities, particularly at the Regional level, tend to be more fluid and adjustments to serve them must be made immediately to support Regional operations.

At this time, Region 7 does not believe the issues described rise to the level of a material or Agency weakness. We will continue to monitor these issues and report as appropriate.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

Records Management

Last year, Region 7 identified weaknesses in records management, in particular the retaining, collection, analysis and use of electronically stored information, as a weakness. This contributed to the

identification of management of electronically stored information as a material weakness Agency-wide. Region 7 has been closely involved in the Agency's efforts to address this weakness. Additionally, over the past year we embarked on a two-year records training program to educate regional staff of their document management responsibilities. We have developed language on records management to be included in all regional staff's FY12 PARS. Additionally, we have introduced staff to the use of Quickr sites, shared-drive "garages" and other collaborative electronic tools and encouraged the use of these tools in their work, thus reducing the number and size of email traffic and corresponding records created.

In FY 2011, the inspectors for the Enforcement Field Compliance Branch (EFCB) identified a problem with the retention and retrieval of regional inspection records. An assessment of the Region's process for the storage and retrieval of inspection records was planned and has been completed. Corrective actions have been taken and the ability to successfully retrieve inspection records sent to the record center by EFCB was demonstrated. Further improvements in electronic management of records (scanning instead of copying) were agreed to by the CAA program and two states. Records management of inspection reports should continue to be examined as part of the planned relocation of Region 7 offices, overall contract expenditures and advances in technology, including computer data storage.

National Environmental Laboratory Accreditation (NELAC) Program Review

A NELAC Quality System Assessment was completed in FY 2011 and accreditation was re-issued to the laboratory through April 2012. This accreditation is essential to ensure that our clients have confidence in the analytical services provided to them by Region 7.

Improved Communications with States/Tribes/Other Stakeholders

Region 7 closely coordinates the state program reviews for the Water Enforcement (State Review Framework) and NPDES Permit (Permit Quality Review) programs. These two programs coordinate with the states in advance of the reviews, plan the reviews together, attempt to review the same or related projects, travel to the state offices together, conduct joint entrance and exit meetings, and submit reports to the states in a similar time frame. This has been recognized nationally as a process improvement and a means to increase program implementation efficiency.

In December 2010, Region 7's tribal program was reorganized into the Office of Tribal Affairs (OTA) and moved into the immediate office of the Regional Administrator. This reorganization emphasizes the importance Region 7 places on strengthening the partnership with tribes. A new "EPA Region 7 Tribal Practices Guidebook" was developed to inform staff and tribes of the changes made in the Region 7 tribal program. This guidebook consists not only of the "Tribal/EPA Best Management Practices Guide for Grants and Communications" developed by a Region 7 staff and tribes workgroup to improve grants management but also includes guidance on roles and responsibilities of the new Office of Tribal Affairs, implementation of the Agency's new Consultation and Coordination Policy and guidance on communications between program offices and OTA regarding tribes. The Regional Administrator and Director of OTA met with each Region 7 tribal chairman, provided them a copy of the new guidebook and requested their comments. The procedures itemized in the guidebook will be re-examined in 6 months and adjustments made in response to comments received.

Human Capital

Region 7 continues implementation of the "Best Places to Work" initiative which instituted many new practices fully supported by our employees, unions and managers in FY 2011. As a result, process changes were made to incorporate employee input on leadership, diversity and awards. Brief examples

of improvements: Additional Brown Bags and increased LAN Bulletin Board (Intranet) notices regarding employee educational and awareness issues or quality of work life programs; Development of a Region 7 Social Committee; Revised PARS for Senior Leadership and managers on hiring, leading people, diversity, cross-cutting strategies, etc.; Development of a Region 7 Awards Program; Development of Region 7 Outreach & Recruitment Strategy; Civil Treatment for Managers & Civil Treatment for Employees training for all Region 7 employees on employee rights and responsibilities in the workplace; Senior Leadership development of Guiding Principles; re-instituted open door policy with Senior Leadership; expansion of building hours (opening one hour earlier so employees could use fitness center for an hour prior to the start of their work day); inviting unions to attend managers' meetings, and many others. Region 7 EEO, HR employees and managers continue to work together on recruiting diverse applicants. We developed an aggressive four year plan, establishing Recruitment and Outreach Collaborative Teams (ROCTs) which develop relationships with schools and organizations, attend career fairs or events using a comprehensive event schedule and consistent parameters regarding team goals/objectives. Statistics gathered will be measured and analyzed in coming years.

Region 7 was the first to develop a Labor Management (LM) Forum with its two unions--AFGE & NTEU--who meet with Senior Leadership on a quarterly basis. Topics discussed are matters of concern to the unions and employees. Many new understandings have occurred due to the building of these relationships through the LM Forums, where participants adhere to guidelines they established regarding trust and respect. Meeting notes are approved by the forum members and posted on the LAN Bulletin Board (Intranet) for all employees.

Region 7 is one of the front runners in the Agency with regard to participation in telework. The Region has some of the highest participation numbers in the agency. Region 7 has negotiated a local MOU with NTEU that focuses on the portability of the work as the determinant with regard to the number of days per pay period that NTEU employees may telework under a regular schedule. We believe that productivity has increased and emissions have been reduced as greater participation in regular telework has been realized across the Region. Region 7 requested HQ's approval to develop a local pilot telework agreement that will be applicable to EPA non-bargaining unit employees, and employees represented by AFGE or NTEU. The purpose of the pilot is to increase further participation in telework. Region 7 along with Region 9 will be EPA's model for best practices in telework in FY 2011.

CLOSING

In closing, we have thoroughly reviewed our programs in accordance with the five internal control standards outlined by GAO guidance, and I am assured that Region 7 is implementing reasonable measures to protect our programs from waste, fraud, abuse and mismanagement. If you have any questions regarding anything in this assurance memorandum, please contact me or Mark Hague, Acting Deputy Regional Administrator.

ATTACHMENTS

Region 7's internal control reviews conducted during FY2011 are identified in the Program Review Strategies and Multiyear Plans available at the following link
<http://r7atwork.r07.epa.gov/intranet/oldr7/moneymatters/audit/fmfia.html>.

- A. Newly Proposed Weaknesses and Significant Deficiencies (Not Included/Not Applicable to Region 7)

- B. Significant Financial Process (Not Included/Not Applicable to Region 7)
- C. Current Weaknesses and Significant Deficiencies (Not Included/Not Applicable to Region 7)
- D. Agency Response to OIG; GAO; or OMB (Not Included/Not Applicable to Region 7)
- E. Control Environment
- F. Recovery Act Stewardship Plan
- G. Deep Water Horizon/BP Oil (Not Included/Not Applicable to Region 7)
- H. Unliquidated Obligation – Design and Staffing Plans
- I. Unliquidated Obligations – Checklist
- J. Unliquidated Obligation – Certification
- K. Superfund State Contract - Certification
- L. Superfund Site Identifier and ZZ Accounts

cc: Annette Morant, OCFO
Cheryl Varkalis, OCFO
Patrick Gilbride, OIG

ENVIRONMENTAL PROTECTION AGENCY
FY 2011 Internal Controls Over Financial Activities (OMB Circular A-123)

1. Name of Region/Program:

Region 7

2. Integrity and ethical values:

Region 7 conforms to and implements federal and EPA codes of conduct and other policies regarding acceptable business practices, conflicts of interest, and expected standards of ethical and moral behavior. All staff members complete ethics training and appropriate staff members complete financial disclosure statements. Region 7 has established operating procedures which ensure a positive control environment. Region 7's communication strategy incorporating integrity and ethical values; information and clarification regarding changes in requirements or processes, personnel, budgets, records, and custody and use of equipment is achieved via e-mail and direct verbal/written communication to employees and/or managers. Region 7 is committed to strengthening our management integrity efforts to ensure compliance with the requirements set forth in the Federal Managers' Financial Integrity Act and Office of Management and Budget Circular A-123.

3. Commitment to competence:

All staff has current position descriptions which are used in evaluations and reflected in the Performance Appraisal and Recognition System (PARS). Formal job descriptions are reviewed annually and specific critical job elements for each employee are reviewed and jointly discussed between the manager and the employee formally at least twice a year as part of the mid-year and end-of-year performance appraisal process. Informal discussions take place throughout the year individually between managers and staff and as a group through branch, section or team meetings. During each year, the Management Team has ongoing discussions about skill needs and the best fit of staff skills with work. Reassignments or details support high priority work, temporary needs on specific projects, and skill enhancement for staff.

4. Management's philosophy and operating style:

Region 7 management ensures high levels of internal controls are in place to maintain management and fiscal integrity. Internal control reviews are conducted annually and program reviews are conducted frequently on program processes and identified areas of vulnerability. There are additional requirements for Recovery Act related resources. Our commitment to management philosophy and operating style includes accountability for all employees; cross program and organization coordination; effective compliance tools; managing grants to ensure successful project/program outcomes; managing all funds to ensure sound fiscal management and adherence to all applicable statutes, regulations, and policies.

5. Organizational structure:

Region 7 continues to review the flow of information and look for methods and/or processes to improve the effectiveness and efficiency of the communication flow. Regularly scheduled senior management meetings resulted in effective cross-program coordination and collaboration. Similarly, regularly scheduled branch staff meetings convey critical information in a timely manner. Effective communication with our states, tribes and regulated communities is a priority in Region 7. Region 7 revamped and significantly strengthened the Office of Public Affairs in recent years to more effectively address the press and public.

6. Assignment of authority and responsibility:

Much of Region 7's authority and responsibility is regulatory or statutory in nature. Still other assignment of authority and responsibility is mandated by the agency and/or regional delegations. Assignment of authority and responsibility within Region 7 is documented formally in division and branch functional statements; management and staff position descriptions also provide formal documentation of duties and responsibilities.

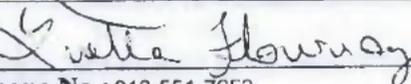
7. Human resource policies and practices:

Policies and documented practices are in place in regards to human resource functions, but some of them have been modified during the current fiscal year to accommodate the consolidation of human resource activities. Due to our migration to the Human Resources Shared Service Center (SSC) in Cincinnati, policies and procedures for several human resource functions have changed and they are maintained at the SSC.

8. Oversight groups:

Region 7 coordinates with internal and external groups that the Agency works closely with in reviewing and monitoring activities including the OIG, GAO, OMB, OPM, and Agency/Regional internal review staff. The Regional Audit Coordinator maintains up-to-date documentation on all audits and/or reviews involving Region 7 and those that may impact Region 7 at a later date. This has become increasingly critical with the numerous Recovery Act reviews being conducted. Having a central point of contact in the region has eliminated many duplicate efforts by oversight groups: we can coordinate both the external groups and internal responders who have the information the oversight groups are

Senior Resource Official: (This signature constitutes the support for the AA/RA certification. This signed attachment should be attached to the AA/RA assurance letter.)

Name: 

Title: Luetta Flournoy
Assistant Regional Administrator

Telephone No.: 913-551-7653

Organization: Region 7 Office of Policy and Management

Date Prepared: August 11, 2011



Correspondence Management System

Control Number: AX-11-001-3846

Printing Date: August 16, 2011 03:52:00



Citizen Information

Citizen/Originator: Weeks, Ann Brewster

Organization: Clean Air Task Force
Address: 18 Tremont Street, Boston, MA 02108

Bundy, Kevin P.

Organization: N/A
Address: 351 California Street, San Francisco, CA 94104

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3846

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Letter Date: Aug 15, 2011

Received Date: Aug 16, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File - Docket No. EPA-HQ-OAR-201 1-0083; Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs, 76 Fed. Reg. 43,490 (July 20, 2011)

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OEAE - Office of External Affairs and Environmental Education
OGC - Office of General Counsel -- Immediate Office
OP - Office of Policy
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Aug 16, 2011	Aug 30, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Martha Faulkner	OAR	OAR-OAQPS	Aug 16, 2011	Aug 26, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

**CENTER FOR BIOLOGICAL DIVERSITY •
CONSERVATION LAW FOUNDATION • GEORGIA FORESTWATCH •
NATURAL RESOURCES COUNCIL OF MAINE • WILD VIRGINIA**

Via e-mail: jackson.lisa@epa.gov

Hard copy to follow by Certified Mail

August 15, 2011

Ms. Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

RE: Docket No. EPA-HQ-OAR-2011-0083; *Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs*, 76 Fed. Reg. 43,490 (July 20, 2011)

Dear Ms. Jackson:

On behalf of the undersigned organizations, we write to inform you that we have today filed a Petition for Review in the U.S. Court of Appeals for the District of Columbia Circuit, challenging EPA's final rule entitled *Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs*, 76 Fed. Reg. 43,490 (July 20, 2011) (the "Biomass CO₂ Exemption"). This letter describes our reasons for not first seeking administrative reconsideration of any of the elements of the rule before filing this action.

Our clients and others have presented to the Administrator detailed objections to substantive and procedural issues that are of central relevance to the outcome of the rule. Raising such objections again in a Petition for Reconsideration is both unnecessary and improper. Section 307(d)(7)(B) of the Clean Air Act strictly limits Petitions for Reconsideration to objections that were

Ms. Lisa P. Jackson
Re: Docket No. EPA-HQ-OAR-2011-0083
August 15, 2011

“impracticable” to raise during the public comment period *and* that are of “central relevance to the outcome of the rule.” 42 U.S.C. §7607(d)(7)(B). Nothing in the final Biomass CO₂ Exemption rule satisfies these criteria; accordingly, the undersigned organizations cannot seek, and cannot be required to seek, reconsideration before seeking judicial review.¹

Seeking reconsideration would certainly be futile in any event, as EPA claims to have adopted this rule as “part of the process” of granting a Petition for Reconsideration of the treatment of biogenic CO₂ under the Tailoring Rule. *See Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs: Proposed Rule*, 76 Fed. Reg. 15,249 (March 21, 2011). Given that EPA has just reconsidered its position in the Tailoring Rule, a petition to the agency asking it to change its mind *again* would certainly be met with an adverse decision. *See Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1040 (D.C. Cir. 2002).

Finally, time is of the essence in this proceeding. As EPA well knows, significant amounts of each ton of CO₂ emitted remains in the atmosphere for more than a century, causing radiative forcing, increasing global temperatures, and creating drastically changed climatic conditions. U.S. EPA, *Final Endangerment and Cause and Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496, 66,512, 66,518 n. 18 (Dec. 15, 2009). Actions to *reduce* overall CO₂ emissions *immediately* therefore are essential to avoid exacerbating the damage from climate change. Each *additional* ton of carbon dioxide emitted by unregulated major modifications of existing facilities burning biomass fuels, and by new biomass-fueled facilities that now will be constructed during the exemption period in an effort to avoid any future control requirements, constitutes emissions that would not have occurred, or would have been reduced, absent EPA’s illegal Biomass CO₂ Exemption. The majority of

¹ This applies with equal force to EPA’s reliance in the final rule on the “one-step-at-a-time” doctrine. EPA’s reliance on this legal doctrine is not of central relevance to the outcome of the rule, and in any event, EPA received and responded to public comment on this doctrine. Accordingly, reconsideration of EPA’s reliance on this doctrine is unavailable pursuant to the statute, and the propriety of EPA’s reliance on this doctrine is preserved for judicial review.

Ms. Lisa P. Jackson
Re: Docket No. EPA-HQ-OAR-2011-0083
August 15, 2011

these emissions will persist in the atmosphere for more than a hundred years. There is no way in the near term to reverse these emissions, nor will it be possible to undo the damage they will cause to the climate over the next century and beyond. This damage is both immediate, as climate change is already affecting our members' lives, property, and interests, and long-lasting. This situation argues strongly for immediate judicial review.

Accordingly, for the foregoing reasons, the undersigned organizations are seeking prompt judicial review of the Biomass CO₂ Exemption without filing a Petition for Reconsideration. Please include a copy of this letter in the docket for the above-referenced rule (No. EPA-HQ-OAR-2011-0083).

Sincerely,

/s/
Ann Brewster Weeks
Clean Air Task Force
18 Tremont Street, Suite 530
Boston, MA 02108
Counsel for CONSERVATION LAW
FOUNDATION and NATURAL
RESOURCES COUNCIL OF MAINE

/s/
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Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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AUG 12 2011

MEMORANDUM

SUBJECT: FY 2011 Federal Manager's Financial Integrity Act Assurance Letter

FROM: H. Curt Spalding
Regional Administrator, US EPA Region 1

TO: Lisa P. Jackson
US EPA Administrator

PURPOSE

In accordance with the Federal Manager's Financial Integrity Act (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for EPA Region 1 (New England).

STATEMENT OF ASSURANCE

Under my leadership, EPA Region 1 has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In FY 2011, the regional program managers assessed internal controls over national program operations and identified regionally applied programs/initiatives. During FY 2012, the programs will be ranking the risk of the internal controls over programmatic operations to develop program review strategies for programs that have the greatest risk for fraud, waste abuse and/or mismanagement. Additionally, we will continue to conduct reviews of internal controls over financial activities.

In my judgment, EPA Region 1 complies with Federal Manager's Financial Integrity Act requirements and Region 1's internal controls are adequate to reasonably ensure the protection of the programs operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

In accordance with the American Recovery and Reinvestment Act of 2009 (ARRA/Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
- All Recovery Act funds designated for EPA Region 1 have been used solely for the purpose of that program and, if applicable, were awarded and distributed in a prompt, fair, and reasonable manner;
- The Region 1 Comptroller's Office and the program offices monitor the risks and internal controls identified in EPA's Recovery Act Stewardship Plan (Stewardship Plan) and EPA Region 1 is in compliance with the Stewardship Plan.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

I hereby certify that all appropriate staff in EPA Region 1, e.g. SES, Managers and Supervisors, and Management Integrity Advisors, have completed the Agency's on-line Management Integrity Training on Internal Controls.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

In Region 1, our evaluation of internal and management controls involves assessing our major activities, identifying program vulnerabilities, and proposing corrective actions for the identified problems. Through the knowledge and experience of our staff and managers, issues raised through program reviews and Office of Inspector General Audits, and opinions from our customers and stakeholders. Through weekly meetings with Region 1 senior management, management is able to discuss and monitor current issues and key pending actions. Issues typically addressed at these meetings include: status of ARRA, reporting, budget concerns, budget planning, program performance issues, human resource issues, communications, unliquidated obligations, facility management issues, significant GAO/OIG field work, management assurance, key program accomplishments and challenges, as well as the linkage of all employee performance agreements (PARS) to the Region's Strategic Plan and the cascading of performance metrics from senior management to the staff. Each program office conducts similar weekly meetings within their division following a similar format. Monthly written reports are submitted to RA on all program targets and key responsibility areas for the entire Region.

In FY 2011, Regional Office Directors and Program Managers routinely participate in national planning and targeting meetings to discuss priorities and mid-year review progress. Region 1 managers continued to work with NPM's by setting annual program commitment targets that align with EPA's strategic Plan, through the Agency's Annual Commitment System (ACS) and other aspects of Agency-wide planning and reporting. As part of the performance review process, divisions informally tracked their commitment during the year, participated in feedback sessions with NPMs and conducted status presentations for the Deputy Regional Administrator (DRA) and/or the Regional Administrator (RA). A number of cross program workgroups exist within the Region to insure sound management of cross-cutting issues: ARRA workgroup, special accounts management, diversity steering team, and grants policy committee. The Region's current framework for assessing internal controls within the programmatic operations and financial activities found that they are effective to reasonably ensure the protection of programs, operations, functions and resources for against fraud, waste, abuse, and mismanagement.

As required in the Office of Chief Financial Officers (OCFO) FY2011 and A-123 guidance documents, Region 1 initiated the development of Program Review Strategies for our key programs. To date, managers have reviewed the national Program Review Strategies to evaluate and determine the risk level within our program operations of the national programs. The Region reviewed all applicable National Program Review Strategies/Multi-year Plans and found that there were no weaknesses or vulnerabilities in the National Program Review Strategies nor any regional implementation issues. In addition, the Region reviewed the Program Review Strategies/Multi-Year Plans for the Office of Water and the Office of Air and Radiation. While the control activities laid out in the plans are led by the national program offices, Region 1 has a role in providing activity measure data to OW and OAR to ensure that the programs are being implemented effectively. Region 1 has been meeting its obligations to report this data, thereby allowing OAR and OW to measure our progress. Regional air and water managers also regularly participate in national meetings and conference calls to discuss progress in implementing goals and strategize on improved implementation.

To establish a stronger framework for assessing internal controls over programmatic operations and to increase the rigor of programmatic internal control reviews Region 1's focus is to complete the Agency's 2-year effort initiated in FY 2010 by: 1) assessing risks and vulnerabilities for key programs; 2) completing Program Review Strategies, and; 3) establishing Multiyear Plans for conducting reviews. This fiscal year, the Region is establishing the framework for reviewing its internal controls over our programmatic operations and financial activities by identifying key programs, functions, and activities based on the Region's line of business and program performance goals established by the National Program Managers and EPA's Strategic Plan; preparing program review strategies (PRS) for each key program; and, preparing Multi-year Plans for conducting internal control review. The Region plans to establish draft PRSs for our key programs. The Region will use the NPMs program review strategies as a basis to form our priorities and identify risk from a regional perspective.

Enforcement Programs

The Region assessed programmatic operations internal review controls of the Region's Enforcement Program and did not identify any program, function, or activity which poses a risk that merits development of a program review strategy in FY11.

This assurance is based on the conduct of weekly all-manager meetings in the Office of Environmental Stewardship (OES) that provide a forum for regular communications and discussion with our managers on programmatic, budgetary, planning, human resources, communications, and other issues, as well as the linkage of all employee performance agreements (PARS) to the Region's strategic plan and the cascading of performance metrics from senior management down to the staff. All OES enforcement programs (CAA, CWA, RCRA, TSCA, EPCRA, SDWA, FIFRA, and CERCLA) and assistance and pollution prevention programs are included in the discussions.

Reporting to the Regional Administrator for all program targets is done on a regular basis, with participation of OES managers in the report preparation, review, and editing. In addition, we have continued to meet regularly with the senior managers in Office of Site Remediation and Restoration (OSRR), Office of Ecosystem Protection (OEP), Office of Environmental Measurement and Evaluation (OEME), Office of Administration and Resource Management (OARM), Office of the Regional Administrator (ORA), Criminal Investigation Department (CID), and Office of Regional Counsel (ORC), which share responsibility for various aspects of the Region's Enforcement programs, to discuss specific issues about cases and initiatives and other issues related to budget, finance, litigation, staffing, strategies, and other matters. The Regional Enforcement Program also continually reviews our priorities and initiatives and assesses the results of various program reviews and audits through numerous strategic planning discussions.

The Region's Enforcement Programs participate routinely in national program meetings at the Division Director and Branch Chief levels, including beginning-of-year planning and targeting meetings and mid-year progress reviews. They also provide for Section Chief and staff participation in numerous national forums related to information management, data systems, national priorities, and national policies.

The Region's Enforcement Programs meet quarterly with the senior enforcement and assistance managers in all the New England states to exchange information, including discussion of priorities, initiatives, and policies. They participate in regular reviews of state enforcement programs as part of OECA's State Review Framework. The Region has senior staff liaisons with the enforcement and assistance program managers in all the New England states who routinely discuss state reporting and progress on meeting national commitments.

Program Review Strategy

Human Resources

To date, the Region has completed the development of one Program Review Strategy, i.e. Human Resources Management. See Attachment A. While the designated risk levels for the Human Resource Program are low, Region 1 continues to be persistent in monitoring and evaluating our human resource programs and utilize a variety review strategies to assess and measure effectiveness of both long-term and short-term goals.

Regionally- Led Programs/Initiatives

To strengthen the Agency's management weakness, EPA Region 1 has several regionally-led programs/initiatives that the Region is assessing to determine the need to strengthen or finalize program review strategies for internal control reviews.

- **Bridgeport, CT.** - Selected as a Regional EJ Showcase Community, Region 1 is building on work that has already taken place to help the community improve its own environment by identifying a network of partnerships and by connecting with Bridgeport's B-Green 2020 initiative. Work includes efforts to improve indoor air quality, encourage green jobs in the community, increase recycling rates, and reduce asthma and toxic exposure in schools and homes.
- **Fairmount Corridor in Boston, MA.** - The Sustainable Communities Partnership among Housing and Urban Development (HUD), Department of transportation (DOT), and EPA has focused collaborative efforts on the Fairmount Corridor in Boston. This transit line runs through some of the city's neediest environmental justice neighborhoods. EPA has invested significant Brownfields resources in assessment and cleanup of contaminated sites to help revitalize the corridor.
- **Regional Applied Research Effort (RARE)** - This is an Office of Research and Development (ORD) funded program to support applied geographic research to investigate priority science needs within the Region. On an annual basis Region 1 solicits staff for pertinent projects and with ORD assistance the Region selects and funds the most regionally relevant projects.
- **Regional Methods (RM)** - This is an ORD funded program to support method development for critical environmental measurement needs within the Region. On an annual basis Region 1 solicits staff for pertinent projects and with ORD assistance the most relevant projects are funded following a national completion and review.
- **Healthy Communities Grant Program**- The Healthy Communities Grant Program is a regionally-designed consolidated grant program that joins discretionary funding across contributing programs to competitively identify and fund community-based projects in New England that achieve measureable environmental and public health results. In 2010, EPA New England's Assistance & Pollution Prevention, Asthma, Children's Health, Environmental Justice, Pesticides, Tools for Schools, Toxics, Urban Environmental, and Wetlands Protection partnered to identify competitive projects that will achieve measureable environmental results and/or public health results.

RESULTS OF INTERNAL CONTROL REVIEWS

Programmatic/Administrative Operations

Human Resource Management conducted the following internal control reviews:

- ***Employee View Point Survey 2011***
In March of 2011, Region 1 participated in the Employee View Point survey conducted by OPM and EPA. This annual assessment gauges our human resources efforts in the areas Strategic Alignment, Leadership/Knowledge Management, Results Oriented Performance Culture, Talent Management, and Job Satisfaction. The survey has been issued and Region 1 obtained a 51% response rate. Survey results have not been released.
- ***Shared Service Center (SSC) – Strengthening the Partnership***
To commence the third-year anniversary of Region 1's transition of transactional HR functions, our Shared Service Center hosted a 2-day open house, in November 2010, for both members of OARM's Senior Leadership and the HR Office. While past meetings focused primarily on operational improvements, this meeting provided key training for HR Specialists on topics such as Hiring Reform, 80-day hiring model, merit systems principles and prohibited personnel actions. By providing the opportunity for HR Specialists (R1 and SSC) to collaborate and discuss relevant topics, considerable progress was made in strengthening the partnership between the Region and the SSC. Moving forward, this partnership will be critical as the Region works with the SSC to address on-going operational issues and develop solutions to better meet the agreed upon standards. The next scheduled meeting with the SSC to evaluate progress is planned for September/October, 2011.

Information Security

To facilitate assessment of agency security operation, EPA's Office of Technology Operations (OTOP) has developed a tool called Automated Security Self-Evaluation and Remediation Tracking system (ASSERT). ASSERT is an automated self-assessment tool for completing the self-assessment following the guidance in the National Institute for Standards and Testing (NIST) Special Publications. ASSERT provides a method to determine the current status of the security program and, where necessary, establishes a target for improvement. To comply with Federal Information Security Management Act of 2002 (FISMA)'s periodic review/assessment requirements, Region 1 information services staff has conducted security self-assessments annually for its GSS using ASSERT. The 2011 ASSERT assessment was completed in June and it will be signed-off in August upon notification from TISS.

Audit Management

Region 1 Audit follow up actions are conducted in accordance with EPA Order 2750. Audit resolution is managed by the Audit Follow-up Coordinator (AFC). Updates to audit resolution are inputted into the Management Audit Tracking System (MATS) database. The AFC coordinates with the ARA and program staff to address delinquent closeouts and facilitate prompt resolution of outstanding issues.

Regional Laboratory

The Region 1 laboratory participation in National Environmental Laboratory Accreditation Conference (NELAC) program and its associated audits, the adoption and implementation of facility management, laboratory and field standard operations procedures (SOPs), and management review practices minimize risk and help avoid vulnerabilities. During 2011, the Regional Laboratory improved these management tools by enhancing the safety walk-throughs to include informal RCRA regulatory compliance checks. The following regular reviews are conducted by the Region 1 laboratory to monitor critical activities and allow management to take timely action to address deficiencies:

- **Budget Reviews** – Monthly financial reports and reviews by the Budget Analyst with Office of Environmental Management and Evaluation (OEME) management serves a variety of purposes which ultimately ensures better control and utilization of resources.
- **Health and Safety Walk-Throughs** – The OEME's Health and Safety Officer performs monthly health and safety walk-throughs to identify and correct hazards as they occur. A manager walks with the Health and Safety Officer each month on a rotating basis to insure that management is appropriately involved in both the identification and correction of problems.
- **Technical Project Reviews** – The office holds quarterly Technical Project Reviews to track progress of applied research projects underway within the office, including projects which have received funding through EPA's Regional Methods (RM) and Regional Applied Research Efforts (RARE) programs. Each review includes discussion of both technical progress and budget against expectations and milestones. OEME's Health and Safety and Environmental Compliance Officers are also invited to the reviews when new projects are launched to evaluate any compliance risks that management should consider.

Enforcement: Auto Body Measurement/Program Evaluation

Currently the Region's Enforcement Program is participating in a pilot project with Office of Enforcement and Compliance Assurance (OECA), the Office of Policy, and Office of Air Quality Planning and Standards (OAQPS) to demonstrate statistically the correlation of compliance assistance delivered to auto body shops with performance improvements by targeted shops. This outreach and pilot was launched as the CAA NESHAP Paint Stripping and Miscellaneous Surface Coating Rule (- the 6H Rule) was promulgated. The 6H Rule became effective in January 2011. The Region's Enforcement Program has been working with a pilot universe of approximately 1300 auto body shops in eastern Massachusetts since the pilot began. Earlier in the pilot, the universe was approximately 1600; but, through returned mailings and failed attempts at site visits, the Region determined that many shops are no longer in operation.

The Region 1 Enforcement Program and OECA contractors randomly assigned half of the shops to a treatment group, which means that this group has been offered assistance in the form of workshops, webinars, and distribution of outreach materials. The other half is a comparison group that had its workshops, webinars, and site assistance visits delayed, but did receive information regarding Region I's auto body webpage to obtain compliance assistance information. The Region offered and provided assistance to the treatment group from October 2009 through January 2010. Using an OMB-approved survey instrument, from May through July 2010, OES conducted phone surveys and site visits. Beginning in August 2010, the regional Enforcement Program rolled out assistance for the comparison group, including sending mailings to the universe with compliance information and invitations to webinars that took place from October through December 2010. In FY11, the Region and OECA-funded contractors conducted another round of 100 site visits using the same survey instrument used in 2010 to assess the degree to which the Agency can conclude that compliance assistance was correlated to shops' performance improvements. In addition to the outreach conducted and measured in Massachusetts, the Agency has used the same survey instrument in Virginia to conduct 200 site visits in 2010 and 100 site visits in 2011 at auto body shops at which no outreach had been planned or conducted in order to compare the Massachusetts shop performance data to the Virginia shop performance data.

The current study is also assessing the validity of self-reported information obtained via phone surveys as a common data collection method used to gather outcome data in the compliance assistance program. An assessment of Initial Notifications and Compliance Notifications required to be submitted by sources subject to the 6H Rule is currently underway to determine whether reporting improvements were connected in any way to compliance assistance activities. Final reports from the contractor analyses are due in September 2011.

Unliquidated Obligations

The Region aggressively pursues the deobligation of unliquidated obligations (ULO) in all of our programs, but particularly in the Superfund and Brownfields programs. These programs have the highest amounts of money at stake. The Region's Office of Site Remediation and Restoration (OSRR) fully complied with OCFO's requirements for ULO review in FY'11. In addition to the OCFO ULO review, OSRR POs perform programmatic reviews and the office prepares an annual Superfund deobligation plan. The Region achieved its remedial deobligation target in April 2011 returning \$2,957,000 to the national pool for reuse throughout the country. POs continuously review all task order activities for potential deobligations.

In the Region's Brownfields program, OBLR sends an annual ULO report which highlights all open grants with project end dates approaching or expired, grants open more than 5 years, and grants funded under Superfund. This data is derived from IGMS and IFMS using ORBIT. The regional Brownfields Coordinator reviews the report with all respective POs and identifies those grants which will be closed out and those which may require extensions. POs write up justifications for the extension which are sent to OBLR for approval on a case by case basis.

Superfund State Contract Process

With regard to Superfund State Contracts (SSCs) balances, the Region 1 Office of Site Remediation and Restoration management routinely review the status of funds residing in these accounts, in coordination with the Region's Comptroller's office, to ensure that any funds that are not needed for further site-related response action are reclassified for RA-related use at other sites nationally. In December 2010, OSRR participated in a LEAN event hosted by OCFO to analyze the accrual process for possible improvements in financial management of SSCs and the accuracy of EPA's financial statement.

Recovery Act Operations

In late May, 2011 headquarters conducted a policy verification review of the Stewardship Plan. The review noted several areas identified as best practices, as well as identifying areas for overall improvement. The review identified some areas for improvement and the following corrective measures have been implemented: DERA project officers will use the Comments field more fully in baseline monitoring to document delays and on-going grant issues. The review also identified several "best practices," including regular use of IGMS by DERA project officers and the use of a single electronic directory for SRF performance evaluation reports and supporting documentation. Two regional Brownfields ARRA grants were reviewed during an OCFO policy verification of EPA's Recovery Act Stewardship Plan (RASP). The draft report indicated an area of vulnerability in OSRR Brownfields PO grant files related to documenting reasons for significant work delays. The Brownfields Section will develop standard forms to document phone conversations, on-site visits, and meetings with grantees. There is no standardized mechanism for this currently, and we believe that formally capturing these exchanges will fill the gaps in the grant file documentation about grantee progress at sites and specific information regarding delays in progress. A final report on the review is expected later this year.

In FY 2011, Region 1's Executive Office and Legal Counsel conducted the following programmatic internal control reviews: The Regional Planners 1) regularly review 1512 reporting information received from EPA Headquarters Office of Administration and Resources Management when deadlines are approaching and then send reminders to appropriate members of the Regional Stimulus Team of recipient who have not yet reported, 2) summarize quarterly outlay data from the regional perspective and forward their findings to the Regional Stimulus Team, and 3) coordinate the regional review of Quarterly Stimulus Performance Reports including encouraging New England success stories.

Legal Review

During the past year Region 1's Office of Regional Counsel (ORC) reviewed a number of ARRA "late" Buy American waiver requests and noncompliance decisions. Because these requests were made after projects were bid, the requests could not be addressed in the same way as earlier requests. Some of these later situations were not entirely unique to Region 1, and coordination with OGC provided guidance for addressing certain common situations. For example, in some cases the need for a waiver did not become apparent until the project was underway. Though considered "late" requests, they were ultimately approved based on their individual facts. In other cases, the use of a non-American made component was not justified, and EPA has issued a letter of noncompliance to the state. In one particularly difficult situation in Region 1, the supplier of certain equipment is alleged to have made fraudulent claims that the product was made in the US when in fact it was not. The resulting IG investigation and the impact of the project on a large metropolitan wastewater treatment plant (Burlington, Vermont) required us to coordinate with OGC, the IG, and the recipient before a decision on the proper course of action (to permit the already installed equipment to remain in place) was made.

Unliquidated Obligations

As part of the ARRA stewardship plan, the regional Brownfields Coordinator reviews weekly ARRA Unliquidated Obligations (ULO) reports sent from Office of Brownfields and Land Revitalization (OBLR). Then, working with the Project Officers (POs), they review the current draw down and contact grantees regularly regarding expected activities and time schedules. These activities are closely monitored with respect to the Terms and Conditions "sufficient progress" requirement of each grant type, with particular emphasis on any grants with less than 50% drawdown.

The chart below summarizes the Region's ARRA obligations and outlays for 3 of the 5 ARRA programs. All are in line with the national averages. All required stewardship monitoring is being performed and a post award monitoring tracking system is in place. Eleven of twelve SRF programs are near or exceed 90% expended. All SRF, DERA and 604(b) ARRA programs have outlay rates higher than the national averages. Three DERA grants have or will be extending, the remaining ones will close by September 30, 2011. Delays in finishing were due to factors outside the grantees' control.

As of July 2011, drawdowns are as follows:

Program	Obligated	Outlayed	Percent
Superfund	\$86,719,461	\$69,426,212	80.03%
LUST	\$9,832,000	\$7,573,103	77.03%
Brownfields	\$15,089,876	\$8,357,786	55.38%

1512 Reporting

The 1512 reporting activities are closely monitored by the regional Brownfields 1512 coordinator working with the POs. Prior to each reporting quarter, the 1512 coordinator notifies the POs and ARRA grant recipients of the upcoming schedules and responsibilities via email. The 1512 coordinator monitors the reporting activities on a regular basis throughout the reporting period. Together with the POs and grantees, any omissions or inconsistencies with data entry are identified and corrected prior to the end of the reporting period. Data quality checks of 1512 reports are conducted quarterly for SRF, DERA and 604(b) by program staff after notification from HQ. States are in compliance with 1512 reporting requirements.

The Region has two Superfund ARRA contract task orders on the two Region 1 RACs contracts. All monthly progress reports and invoices are reviewed in detail. The POs review the 1512 recipient reporting during the agency review time. All reports have been submitted and no major issues have been found.

LUST Program

For the regional ARRA LUST grants, the POs monitored them to ensure that the grantees met the 35/15 grant condition. This grant condition requires grantees to obligate 35% and spend 15% of the total grant funds within 9 months of award date. When two states failed to meet the grant condition, both states were contacted by the OSRR Office Director and asked to provide additional assurances that the remaining ARRA funds would be spent by September 30, 2011. They were also required to submit a detailed work plan for the use of the remaining funds. This information was analyzed by the PO and communicated to OUST. Both states continue to report monthly to the PO as part of the increased oversight and monitoring requirements. In addition, one LUST ARRA grant was granted a one-year extension, so that grant will be carefully monitored for the duration of the project period.

The POs and the program managers participate in quarterly ARRA calls with OUST to carefully monitor progress of obligations and spending. Drawdown reports from IFMS are used during these regular calls. State programmatic measures data and ARRA 1512 reports are discussed.

On a quarterly basis, the LUST POs review the sites contained in the work plans and note any changes. They also discuss project status with each of the states. The State of Maine was one of the first states nationwide that expended all of their ARRA LUST funds, and this grant has been closed out.

DERA Program

Seven of the 15 ARRA DERA grants were required to have Advanced Programmatic Monitoring before the end of September 2011. As of 7/29/11, four have been completed with no findings, two are in the report phase and one is scheduled for on-site review August 2011. The ARRA DERA grant to the Chelsea Collaborative for TRU repower will have a full review by the OIG. It was originally scheduled for October 2011, but may be changed to August 2011.

State Revolving Fund (SRF) Program

The SRF program has completed mid-year ARRA reviews of SRF programs and projects in 3 states (Maine, Rhode Island and Vermont). Reviews in the remaining states are scheduled to be completed by mid-October, 2011. There are no negative findings in the states that have been completed. Minor issues with state oversight of Buy American provisions and Davis Bacon compliance have been discussed with the states and are being addressed.

Interagency Agreements (IAs)

The Region closely monitors three ARRA IAs with the US Army Corps of Engineers (USACE) for Superfund remedial construction. All quarterly baseline monitoring and monthly monitoring of drawdown has been completed on or ahead of schedule. Contract recipient reporting in 1512 is reviewed and has been accurate. The PO can only review the recipient reporting when it is released to the public as we are not the review agency in federalreporting.gov website. Extensive coordination with the USACE has resulted in project schedules being met and timely outlays. One IA (Elizabeth Mine) was closed out and remaining funds were deobligated during FY'11.

Over Financial Activities (OMB Circular A-123, Appendix A)

Comptroller's Office

The Region 1 identified no material weaknesses or significant deficiencies for the following areas:

- Unliquidated Obligations
- Superfund State Contact Process
- Recovery Act Stewardship Plan
- Superfund Site Identifier ZZ Accounts

Grants Management

Region 1 continues to utilize the Grants Policy Committee (GPC) to form workgroups to address practices and procedures that are identified as needing improvement. (Note: The GPC is a committee that is comprised of appointed employees and managers from all the Regional Program Offices and the Grants Office. The purpose of the GPC is to identify regional and national issues that impair the ability of the Region to effectively manage their grant awards. Every year a list is developed to identify the priority areas that the GPC will focus on to continuously improve grants management in the Region.) In Region 1, the Grants Office will continue to develop regionalized training for Project Officers and Grants Specialists. These trainings are identified and developed through the Grants Policy Committee. (Note: The GPC has an Outreach Committee that meets regularly to identify training needs of the Region. A training schedule is developed each year and the chair of the Committee, i.e. the Grants Policy Advisor, establishes work groups to develop training.) Trainings were offered during the May-July time frame.

Region 1 program offices coordinate with the Grants Management office to schedule the efficient and timely processing of all grants and grant extensions, continue to ensure that all of our project officers maintain their proper certification, and have PARS standards that require compliance with all of the elements of proper grants management, including Interagency Agreements (IAs). All regional Project Officers are evaluated orally and in writing each year as part of their PARS.

Superfund Site Identifier ZZ Accounts

In Region 1, Superfund Site Identifier ZZ utilization is carefully monitored. Process and procedures are in place in affected vehicles to redistribute ZZ charges to SSIDs when SSIDs have been established.

CURRENT WEAKNESSES

EPA Region 1 does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provide feedback to Lead Regions on weaknesses for which other offices/regions have the lead.

MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, and OMB

EPA Region 1 does not have the lead for any of the EPA's new management challenges or proposed weaknesses. Through our comprehensive annual FMFIA process we did identify the following areas of concern for the Region.

Limited Capability to Respond to Cyber Security Attacks

In its 2010 audit report, OIG believes that EPA has limited capacity to effectively respond to external network threats and needs to develop an Agency-wide action plan to investigate and combat current threats. Although EPA currently monitors network traffic to identify hostile traffic at its Internet choke points, the Agency remains challenged because it does not have the resources (in equipment or staff) to adequately assess attacks against its infrastructure. The Agency needs to aggressively enhance its cyber security capabilities and address security weaknesses to strengthen its ability to detect and respond to network attacks.

The use of Special Accounts by the Superfund program

The use of Special Accounts by the Superfund program, including the reclassification or transfer to the Superfund Trust Fund of any unneeded funds residing in these accounts, is a matter of recent concern by the OIG and others. OSRR has a rigorous process in place to focus Superfund management attention on these accounts to ensure that all funds residing in these accounts are planned for use at the site or are earmarked for reclassification or transfer to the fund, in coordination with the Comptroller's office in OARM and the Superfund Legal Office in OES. In addition to management's regular review of special accounts, OSRR reviews and updates special account information in preparation for mid-year and work planning sessions with OSRTL.

Contract Management

Staffing concerns for managing contracts in the Region is a significant management challenge. Through the end of FY 2010 and through the first half of FY 2011, the region had to continue to transfer its workload to other regions and to HQ. A number of mid range value contracts were transferred to HQ for administration in late FY 10. Additionally, one was transferred to Region 5 at the beginning of FY 11. Region 5 also assumed placement responsibility for a new contract for the region. All inactive major contracts were transferred to HQ for closeout in Oct 2011. Additionally, a significant portion of the region's Simplified Acquisitions and GSA orders that were submitted at the end of FY 10 and beginning of FY 11 were sent to HQ and other regions for placement. The Region determined that it was preferable to transfer workload elsewhere instead of attempting to do it without the appropriate resources, a situation that could have led to multiple vulnerabilities. However, the Region's preference is to build the capability within Region 1's contract management program so that the Region has the capacity to handle the work and does not have to continue to farm out the work, especially with some very large Superfund contracts that will be issued in the upcoming years.

NEW or EMERGING ISSUES

Through our comprehensive annual FMFIA process we did identify the following areas of concern for the Region. However, at this time, the Region does not believe the issues described rise to the level of a material or Agency weakness. We will continue to monitor these issues and report as appropriate.

Homeland Security Responsibilities: The Region 1 laboratory has accepted both regional and national responsibilities as a member of EPA Office of Solid Waste and Emergency Response (OSWER's) Environmental Response Laboratory Network (ERLN). These responsibilities include developing capacity for the analysis of chemical warfare agents (CWAs) in environmental matrices to support response and recovery from a weapon of mass destruction (WMD) event. OSWER and the Department of Homeland Security (DHS) recognized laboratory environmental testing capability for CWA residues as a national vulnerability and established a program to develop capacity in 2006. As one of seven pilot laboratories selected by OSWER and DHS, this Office has received over \$2 million to purchase analytical hardware, modify the laboratory facilities and support contractors. To date, no FTE have been provided to staff the program, so development work is accomplished by existing staff with a consequent slow down in other work and delays in development. The challenge going forward will be funding the ongoing operation and maintenance of this capability and staffing the laboratory with a credible core team around which surge capacity can be built with other regional staff and external staff from partner laboratories.

New Forensic Evidence Accreditation Expectation: There is an emerging concern for the Regional Laboratory that the National Environmental Laboratory Accreditation Conference (NELAC) accreditation program that covers the OEME laboratory operations and the Agency's internal Field Operating Guidelines will not satisfy new forensic evidence accreditation expectation coming out of the work of the National Science and Technology Council's Subcommittee on Forensic Science (SoFS) and the subcommittee's Interagency Working Groups (IWGs). The SoFS was formed in response to the National Academies' 2009 report entitled, "Strengthening Forensic Science in the United States: A Path Forward," which contains a number of significant recommendations that will impact forensic science service providers. A federal forensic science service provider is defined by SoFS as having at least one full-time analyst (however named) who examines physical evidence in criminal and/or investigative matters and provides reports or opinion testimony with respect to such evidence in US courts of law. In other words, having laboratory analysts and field measurement/sampling staff, adding up to one FTE combined, who provide technical support for civil or criminal enforcement actions, would meet the definition of a forensic science service provider. OEME and perhaps other Region 1 offices will meet that definition. OEME is concerned at the prospect of the time and cost involved in supporting multiple similar accreditations in response to slightly different guidance's set by different bodies all working against a similar backdrop of assuring information quality and integrity.

Inconsistencies with State Work Plan and Deliverables: The Office of Ecosystem Protection has uncovered inconsistencies between the initial work plan and the final end of year deliverables as a result of a previous focus on documentation and reviews. Work plan commitments from previous years have sometimes been included in the following year. This could be a result of overloading states with commitments that are virtually impossible to meet, poor resource management on the part of the state, or insufficient documentation as to why deliverables were not met. This could potentially constitute a material weakness. We will continue to monitor the issue and report as appropriate.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

Integrated Management Model

In addition to the regional cross program workgroups, Region 1 has developed an integrated management model to establish shared ownership of our most challenging environmental issues through the development of cross-program networks. Networking every office in the region to collaborate around priority issues provides a frame work for operating holistically, shedding some outdated management techniques, and learning ways of working together to optimize productivity and reduce waste and redundancy thereby strengthening our accountability and results when addressing our most pressing environmental problems. The Region formed cross-program networks for the following priority issues: Global Climate Change; Integrated Storm water; Communities; Environmental Justice Council; Green Economy/Green Workforce; and, Regional Science Council while integrating 3 core principles (sound science, Environmental Justice and support for green economy) into all of our work.

Tracking Regional Priorities

In FY 2010, the Region enhanced an issues tracking tool initially developed by Region 2 for overseeing and monitoring regional priorities and action items. The tool provides the Region with an automated system that enables the Region to compile a comprehensive list, on region-wide basis, of issues that are priorities for the region and ensures that they are resolved in a timely fashion. This tracking mechanism strengthened the Regions management of programmatic operations by establishing accountability and transparency when addressing regional priorities.

Information Security

To enhance EPA Region 1's information security capabilities, the Office of Information Security Operations implemented the following network monitoring tools: Scrutinizer, BigFix, SEP, NESSUS and EM7 to enhance our information security capabilities and identified training needs focusing on computer forensics and cyber security. In 2011, the Regional ISO has taken the CISSP and ICS refresher training.

Human Resource Management

The Region has successfully implemented a number of high priority HR initiatives: strengthened our senior leadership to be a high performing team (working with the Blanchard Company) and provided critical training on Situational Team Leadership, Problem Solving, and Difficult Conversations; built depth in the Region's leadership succession plan by investing in our 1st and 2nd level supervisors: a) offered training on situational Team leadership training and difficult conversations; b) and developed a comprehensive orientation for new supervisors, In addition, communications were improved by creating a quarterly Human Resources Newsletter for Region 1 supervisors and managers, developed a management forum and established quarterly management meetings, and held trainings on a number of human resources topics.

Also, in support of the OneEPA model, members of the Human Resources Office have been certified to facilitate a chartering (mission, vision, purpose, and values) process for teams. Soon the HR office will begin chartering teams throughout the organization giving them the tools they will need to be high performing teams.

Security Programs

Construction will be complete for the installation of a HSDN secure network in 2011 in EPA's Top Secret Room to correct communications challenges and vulnerabilities. This network supports all aspects of National Response Framework, Emergency Support Function Annex 10 (Hazardous Material Removal) in the event of a terrorist/criminal incident of National Significance. This will provide the Region with secure communication capability allowing for the flow of confidential information between and among our federal partners in a seamless manner.

Site Remediation and Restoration Baseline Monitoring

For grants baseline monitoring as of July 1, 2011, when the figures are combined for ARRA and non-ARRA Region 1 OSRR grants, out of the 364 open grants, 354 (97%) are in compliance with their baseline programmatic reviews. This figure exceeds the FY11 national EPA target of 95%. In the Contracts Management Section of OSRR, monthly reports are generated from the Post-Award Baseline Monitoring Tool (<http://cfint.rtpnc.epa.gov/baseline/>) and provided to all OSRR Project Officers with a programmatic baseline due in the next 45 calendar days. If any baseline monitoring is delinquent, the Project Officer is contacted directly for follow-up. The Section Chief follows up with the appropriate management if baseline reviews continue to be delinquent.

Site Remediation and Restoration Socio-Economic Goals

The Region continues to work towards meeting the Agency's socio-economic goals. The Superfund program accounts for a large percentage of the Region's annual contracting expenditures. The Region has instituted procedures to ensure that decisions on which of the available contracting vehicles to use in a given situation are not decided at the staff level, but at the Branch Chief level with specific consideration of the Agency's socio-economic contracting goals and final concurrence by the OSRR Division Director. As of September 30, 2010, all OSRR FAC-COTRs were certified through September 30, 2012.

Regional Laboratory

- ***Accreditation Expectations*** – Over the past several years the EPA Field Operations Group has worked at developing a set of consensus standards for assuring the adequacy of field sampling programs. The Regional Laboratory has been working to implement these standards as a pilot program with some OEME field operations. The first external audit under this program was conducted in March 2011. The audit went very well and the Region is working to both address the audit findings and expand pilot program to cover more of the Regional Laboratory's field activities. The Region 1 Laboratory also maintains National Environmental Laboratory Accreditation Conference (NELAC) accreditation of its laboratory operations.
- ***Problem Tracker*** – Originally developed as an electronic database to track facilities problems, the Problem Tracker has now become a management tool for all types of problem tracking. Problem Tracker reports are regularly reviewed during management meetings to insure that identified QA, environmental compliance, facilities, and health and safety issues are addressed and corrected in a timely manner.
- ***Tickler System*** – The Tickler System is another electronic management tool developed to remind staff and managers of reoccurring requirements. The system sends out reminder email messages to responsible parties to improve compliance with all types of deadlines from training to document review.
- ***Document Control System*** – The chemistry laboratory originally developed an electronic database to control and distribute standard operating procedures for laboratory methods in preparation for accreditation under the National Environmental Laboratory Accreditation Conference standards. This system has now been extended to control all types of procedures, plans, and policies developed by the office for environmental compliance, facilities management, and health and safety. In addition, the system has been enhanced to allow management to track and monitor review of documents and insure that the latest versions of procedures, plans and policies are in use throughout the office.

State and Tribal Performance Partnership Grants (PPGs)

Region 1 manages a PPA/PPG process which serves as a management and oversight tool for a wide range of state environmental programs, as well as a mechanism for managing the interconnections between state and federal efforts, including the Region's Air and Water Programs. In 2011, the managers in the Grants, Tribal, Community and Municipal Assistance Branch continued to assess the process and procedure for assuring complete documentation of all programmatic results and evaluations for State and Tribal Performance Partnership Grants (PPG). Progress has been made to establish a regular dialogue between PPA coordinators and PPG project Officers to ensure all programmatic and administrative requirements are understood, documented and shared. New procedures and tools have been piloted for file review and closeout documentation of State PPGs. Progress has also been made to improve file documentation and reviews for Tribal PPGs, including greater emphasis on timely receipt of reports, site visit documentation, and direct communications with Tribal leaders.

SRF "Green Project Reserve"

Region 1 continues to work with all SRF programs to encourage states to meet or exceed the programmatic goal of having at least 20% of their SRF cap grant for FY 10 and FY 11 go toward a "Green Project Reserve." The Region held a meeting in September 2010, to educate states on the variety of "green projects" that can be funded by the SRFs to meet this requirement, encourage states with regard to all types of Green Infrastructure. A second meeting will be held in September 2011, focused more specifically on energy efficiency and energy production at water and wastewater facilities.

Buy American Waivers

Region 1 continues to lead the nation in the number of Buy American waiver applications and waivers issued. To date, we have approved 27 waivers that were published in the Federal Register.

Letters of Non-Compliance

The Region issued the first non-compliance letter in the nation and to date, has issued five letters of non-compliance. The Region's Municipal Assistance staff continues to focus on compliance with this requirement during biennial on-site reviews of ARRA projects.

CLOSING

Any question on our submission may be directed to Valerie Marshall, Management Integrity Advisor at 617-918-1674,

ATTACHMENTS

Attachment A: PROGRAM REVIEW STRATEGY – Region 1 Office of Human Resources

Attachment B: Unliquidated Obligations

Attachment C: Superfund State Contract Process

Attachment D: Annual Superfund State Contract Certification

Attachment E: Superfund Site Identifier ZZ Accounts

Attachment F: FY 2011 Control Environment

cc: Annette Morant, Office of Chief Financial Officer, Team Lead, Management Integrity
Aileen Atcherson Agency, Office of Chief Financial Officer, A-123 Coordinator
Patrick Gilbride, Office of Inspector General, Director for Risk Assessment and Program
Performance Audits

ENVIRONMENTAL PROTECTION AGENCY
FY 2011 Internal Controls Over Financial Activities (OMB Circular A-123)

1. Name of Region/Program:

EPA Region 1 (New England)

2. Integrity and ethical values:

The Federal Managers' Financial Integrity Act and OMB Circular A-123 are the cornerstones to the Region's control environment. Region 1 emphasizes integrity and ethical values at every level. Each employee is encouraged to complete the annual Agency ethics training to ensure compliance and adherence to the standards of ethical behavior and integrity and as a means of understanding the importance of these codes when implementing our goals and missions. All regional staff whose responsibilities include grants or contracts file annual financial disclosures and complete ethics training.

3. Commitment to competence:

All regional employees perform under a specific and detailed position description and performance agreement (PARS), that support the Agency's goals and objectives. Performance Agreements are written so that all staff understand how their duties fit within the overall mission of the immediate organization, their Division Office, and the Region as a whole. The Region offers ongoing training, both technical and administrative, to assure that staff have the necessary knowledge, skills and abilities to effectively perform their duties as set out in their job descriptions. All performance agreements are reviewed annually along with staff training needs. In October of 2010, the region provided several demonstrations to staff on EPA's enhanced web-based training program, i.e. skillport.

4. Management's philosophy and operating style:

It is the philosophy of Region 1 management to provide all employees with a positive work environment and the tools they need to maximize their contribution to the mission of the Agency. Senior managers meet weekly to discuss a full agenda of issues including: budget, strategic planning, key program activities, human resources, performance measures, and, facility and information security issues. Open communication and respect is the basis of our management philosophy. The regional staff is the most important resource needed to achieve environmental results. On an annual basis, the DRA reviews the results of the staff work surveys to determine what the trends are for the Region and what areas needs improvement in order to provide the best possible work environment for Region 1 employees.

5. Organizational structure:

The present organizational structure in the Region fosters the flow of information necessary to manage programs throughout the organization.

6. Assignment of authority and responsibility:

Regional staff have the appropriate delegation of authority to deal with organizational goals and objectives. This is accomplished by ensuring that the region is in compliance with the Region 1 Delegations Manual. Alignment of authority and responsibility is established in each staff member's PARS. All employees are aware of appropriate internal control procedures and the lines of authority and their responsibilities as they relate to their job duties.

7. Human resource policies and practices:

Region 1 fully implements and strictly adheres to all human resource policies and procedures. Region 1 utilizes regional and national human capital policies and regulations to ensure the effective management of human capital including awards, promotions, training, compensation, evaluations, and hiring policies. In FY 2011, the Region instituted a number of initiatives to strengthen and improve upon the management skills of the Region's senior leadership team including; management training, management forum, quarterly meetings, and a quarterly newsletter.

8. Oversight groups:

Region 1 works cooperatively and closely with internal and external monitoring groups (OIG, GAO and OMB) who are responsible for conducting reviews and audits of our program performance. Given that the greatest part of our activity involves carrying out national environmental programs, Region 1 looks to Headquarters reviews, or those carried out by external organizations to identify programmatic issues that may need to be addressed.

Senior Resource Official: (This signature constitutes the support for the AA/RA certification. This signed attachment should be attached to the AA/RA assurance letter.)

Name: H. Curtis Spalding**Title:** Regional Administrator**Telephone No.:** 617-918-1010**Organization:** EPA Region 1**Date Prepared:** August 11, 2011

MULTIYEAR PLAN FOR CONDUCTING REVIEWS

Organization: EPA Region 1, Office of Administration and Resource Management, Human Resources Office

Internal Control Review (program, function or activity to be reviewed)	Year of Review	Type		Summary of Review	Deficiencies Identified (if applicable)	Corrective Actions	
		Internal	External			completed	remaining
<i>Example:</i> Audit Follow-up Program	FY 2009	internal	OIG audit	An OIG audit found that the Agency can do more to improve its audit follow-up process, and ensure that the information reported to Congress is accurate. (Note: You may wish to complete this column for reviews that you have completed.)	OIG cited a number of conditions that it believes require management attention (see audit report for details). (Note: You may wish to complete this column for reviews that you have completed.)	5 (Note: You may wish to complete this column for reviews that you have completed.)	1 (Note: You may wish to complete this column for reviews that you have completed.)
Employee View Point Survey - evaluates all of RI's HR Programs.	FY 2011 FY 2012 FY 2013	Internal		Annual survey conducted by OPM/EPA HQ. (formerly the Federal Human Capital Survey)	Results from the 2011 survey have not been issued.	N/A	N/A
Shared Service Center - Operations Review	FY 2011 FY 2012 FY 2013	Internal		Senior Leadership from Region 1 and our SSC met to discuss current state of operations as a result of feedback collected from survey.	Consistent problem with the SSC keeping HR Tracts updated. Problems with accuracy of staffing team and last-minute issues being raised just as employees about to enter on duty.		The SSC is working on the accuracy of the staffing actions.
Performance Agreements for Human Resources Staff	FY 2011 FY 2012 FY 2013	Internal		Annual review and evaluation of performance of members of the human resources office. Establish critical elements at beginning of FY, mid-year discussion, and on-going feedback (HRO/Employee) throughout the year.	To be evaluated at end of year		

Signature: *Stephanie P. Shamshon*
Responsible Manager

Date: 08/12/2011



Correspondence Management System

Control Number: AX-11-001-3848

Printing Date: August 16, 2011 03:57:12



Citizen Information

Citizen/Originator: Greenwood, Jim

Organization: BioTechnology

Address: 1201 Maryland Avenue SW, Washington, DC 20024

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3848

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Aug 30, 2011

of Extensions: 0

Letter Date: Aug 14, 2011

Received Date: Aug 16, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File - BIO Comments regarding EPA Regulation of Biotechnology Products

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
ORD - Office of Research and Development -- Immediate Office
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Aug 16, 2011	Aug 30, 2011	N/A
Instruction: N/A					
Martha Faulkner	OAR	OAR-OAQPS	Aug 16, 2011	Aug 26, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

August 12, 2011

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

I am writing on behalf of the Biotechnology Industry Organization's (BIO) members, which include more than 1,100 companies, academic institutions and state biotechnology centers, to express concern about a troubling trend at the U.S. Environmental Protection Agency (EPA or Agency) of gradually expanding its regulation of products of biotechnology. Based on over 25 years of experience with these products, combined with the scientific community's current knowledge of molecular biology and genetics, any expansion of the EPA's current scope or data requirements is unwarranted, contradicts the current administration's avowed support for science, innovation and appropriate oversight of emerging technologies, and offers no concomitant enhancement of product safety or environmental protection. It is unclear how EPA justifies more stringent and costly regulations, when the value of any regulatory expansion is speculative, at best. However, expanding the breadth of EPA's oversight and data requirements imposes significant opportunity costs on U.S. growers, consumers, companies, and academic researchers and adversely affects the environment, U.S. competitiveness and the economy.

The 1986 *Coordinated Framework for Regulation of Biotechnology* (Coordinated Framework) divided biotechnology regulatory responsibility among three U.S. federal agencies - the U.S. Department of Agriculture (USDA), the U.S. Food and Drug Administration (FDA) and EPA - in order to avoid unnecessary duplication of regulatory requirements that could impede the growth of a nascent and promising industrial sector. Within that structure, EPA has regulated novel pesticidal substances produced by plants derived from biotechnology under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act. To date, these substances, which are referred to as "plant-incorporated protectants" or "PIPs," have been naturally occurring proteins that target a narrow range of crop pests. PIPs are biodegradable, safe for human consumption, do not accumulate in the soil, and have significantly fewer impacts on non-pests than most conventional control measures. A number of studies have shown that PIPs preserve biodiversity and serve EPA's goal of reducing chemical usage, while providing highly effective means of controlling crop pests.

The division of regulatory responsibility established by the Coordinated Framework has functioned well for 25 years. Billions of plants that produce PIPs have been safely field-tested under EPA and USDA permits since 1986. To date, EPA has granted registrations of 40 PIPs, while the environmental and food safety of the whole plants have also been reviewed by USDA and FDA. During that time not a single instance of actual harm to human or animal health or the environment has ever been confirmed.

This sterling safety record is not surprising. It was anticipated by many scientific bodies around the world prior to the first commercial introduction of a biotechnology crop¹. Scientific understanding of biology, food safety and agricultural ecosystems predicted the environmental and food safety issues associated with these crops would be the same as those of conventional crops. Almost 30 years of research and testing of biotechnology crops has confirmed those predictions, as has nearly 20 years of real world experience safely growing and consuming these products. Today, biotechnology crops are grown on over 365 million acres in 29 countries and are consumed by people and animals all over the world.

In his 2011 State of the Union address, President Obama said, "To reduce barriers to growth and investment, I've ordered a review of government regulations. When we find rules that put an unnecessary burden on businesses, we will fix them." If this is a guiding principle of the current Administration, then the consistency among the science-based predictions, research findings, and real world experience leads to a clear conclusion: EPA should be actively looking for ways to reduce the scope of its regulations. This was precisely the approach followed by the National Institutes of Health in its oversight of recombinant DNA laboratory research. As actual experience and research data accumulated, the initial requirements and restrictions, which were exceptionally stringent, were reduced or eliminated completely. The scientists and agency officials that crafted the U.S. approach to biotechnology product regulation during the late 1970's and 80's planned to use a similar evidence and data-based system for regulating biotechnology product development and commercialization.²

Unfortunately, recent actions by EPA seem to ignore the original intent of the U.S. approach to biotechnology regulation, the safety record of agricultural biotechnology, EPA's own prior policy statements, and the lessons learned in over 25 years of successful oversight under the Coordinated Framework. Two recent examples will serve to illustrate this trend.

In June 2008, EPA's Office of Pesticide Programs (OPP) informed researchers at the University of Florida that a biotechnology-derived melon that ripens more slowly would be subject to regulation under FIFRA. In developing the melon, the university scientists used a genetic technology that simply lessens the natural production of a substance that all plants make, ethylene. It does not cause the melon to produce a novel substance.

¹ See, e.g., *Recombinant DNA Safety Considerations* (OECD National Experts on Biotechnology, 1986); *Introduction of Recombinant DNA-Engineered Organisms into the Environment: Key Issues* (NAS, 1987); *Field-Testing Engineered Organisms: Genetic and Ecological Issues* (U.S. Office of Technology Assessment, 1988); *Field Testing of Genetically Modified Organisms: Framework for Decisions* (NAS, 1989); *Biotechnologies and Food: Assuring the Safety of Foods Produced by Genetic Modification* (International Food Biotechnology Council, 1990; published in the journal *Regulatory Toxicology and Pharmacology*, volume 12); *Strategies for Assessing the Safety of Foods Produced by Biotechnology* (FAO/WHO, 1990); *Safety Evaluations of Food Derived from Modern Biotechnology: Concepts and Principles* (OECD, 1993).

² See, e.g., 52 Fed. Reg. 22908 (June 16, 1987) (USDA rule establishing requirements for field test permits in 7 C.F.R. Part 340), and 58 Fed. Reg. 17056 (Mar. 31, 1993) (amending Part 340 to establish notification process for field testing certain regulated articles without a permit provided that tests comply with six requirements and six performance standards).

Nonetheless, OPP claimed regulatory oversight of the melon because it had “determined that the transgenic muskmelon ... contains a plant-incorporated protectant (PIP),³ subject to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act.” OPP based this claim on its authority over “plant regulators.” However, OPP’s claim directly contradicts the last public statement by the EPA Administrator on oversight of plant regulators produced by a plant, in which EPA stated that a substance produced in a plant as a result of a change in the plant’s physiology would be considered a plant regulator if: “It is intended to accelerate or retard the rate of growth or rate of maturation, or alter the behavior of the plants **and** meets one of the following criteria: (1) Is a plant hormone. (2) Acts to prevent, destroy, repel, or mitigate a pest. (3) Is toxic in concentrations found in the plant (undiluted package).”⁴ None of EPA’s three criteria apply to the biotechnology melon. In addition, EPA’s policy reversal was made without rulemaking or public notice.⁵

The second example involves EPA’s policy reversal in its decision to regulate a virus resistant plum tree that was developed by public sector researchers at the USDA’s Agricultural Research Service (ARS) – Appalachian Fruit Research Station in order to resist the devastating effects of infection by the plum pox virus. In May 2010, OPP registered “the pesticide product, C5 HoneySweet Plum, which contains the coat protein gene of Plum Pox Virus (CPG-PPV).”

Several comments submitted in response to OPP’s preliminary registration decision asserted that the HoneySweet Plum should not be subject to regulation under FIFRA because it did not produce virus coat proteins or contain any novel product that could be considered a toxin and did not “in any meaningful sense contain a ‘substance’ that should be classified as a PIP.” OPP did not find any of these arguments persuasive, responding that “[t]here is no requirement that the substance be toxic, or, as relevant here, that it be ‘present’ in a particular form.” As to the argument that the product should have been exempted from regulation, OPP responded that USDA-ARS never requested an exemption, so action was taken based on the application that was submitted.

The decision to register the HoneySweet Plum is directly at odds with public statements by successive EPA Administrators and long-standing Agency practice that have essentially exempted viral coat protein (VCP) products from registration as PIPs.⁶ Several VCP products

³ The term “plant-incorporated protectant” is defined at 40 C.F.R. § 174.3 as “a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance.”

⁴ 59 Fed. Reg. 60496, 60507 (Nov. 23, 1994) (emphasis added).

⁵ At least one BIO member had earlier been told by OPP that the Agency did not have authority over the very same trait (i.e., decreased ethylene production via an antisense molecule).

⁶ See, e.g., 59 Fed. Reg. at 60545 (proposing complete exemption for VCPs); 66 Fed. Reg. 37772, 37865 (July 19, 2001) (confirming maintenance of status quo pending finalization of exemption for VCPs); 72 Fed. Reg. 19590, 19595 (Apr. 18, 2007) (proposing a narrower VCP exemption but making no change to status of VCP products). In 2008, OPP required the University of Florida to apply for a pesticide registration for the viral coat protein of a papaya genetically engineered for resistance to the papaya ringspot virus. See 73 Fed. Reg. 51267, 51268 (Sept. 2, 2008). However, in the mid-1990’s EPA reviewed a ringspot virus-resistant papaya variety developed by Cornell University, did not require registration and exempted the ringspot virus coat protein from tolerance requirements. See 40 C.F.R. § 174.515 (originally codified as 40 C.F.R. § 180.1185). OPP required registration of the University of

have been commercialized without registration and, finding no food safety issues, OPP has granted exemptions from tolerances for the presence of these proteins in food.⁷

These examples suggest rather strongly that, as a practical matter, OPP is looking to expand its oversight over biotechnology products and regulate the plants themselves as pesticides under FIFRA. This would be a complete reversal of EPA's longstanding and well-documented position that the Agency will not impinge on USDA's authority to regulate genetically engineered plants, but rather will only look to regulate pesticidal substances produced in the plant. Moreover, for the first time, OPP appears to be regulating on the basis of the process by which a product is developed rather than on the characteristics of the product itself – a direct repudiation of one of the hallmarks of the Coordinated Framework endorsed by every Administration since 1986 and every panel of the National Academy of Sciences that has ever considered the issue.⁸

Most recently, OPP published a Federal Register notice⁹ informing the public of a draft proposed rule to codify data requirements for PIPs. Industry has eagerly awaited clarification and codification of EPA's data requirements, in place of ad hoc decisions, so that the accuracy of estimated regulatory costs and timelines could be improved. To that end, industry worked constructively with EPA staff during various stages of development of the data requirements. Therefore, we did not anticipate a proposed rule that would expand EPA's oversight of genetically engineered crops in a manner that cannot be justified based on over 25 years of real world experience and the existing science, as documented in numerous peer-reviewed journals. In addition, particularly when viewed in light of OPP's approach to the University of Florida melon and the USDA-ARS HoneySweet Plum, the draft proposed rule signals OPP's intent to change its prior policies and expand its regulatory oversight into products regulated by the USDA since 1986, notwithstanding the Coordinated Framework. For example, under the draft EPA proposal, the Agency would assess the weediness of the whole plant even though the Agency has previously acknowledged that this assessment is USDA's responsibility, and any EPA review of weediness potential would be duplicative of USDA's risk assessment.¹⁰

EPA's expansion of authority, duplication of oversight, and dismissal of an unblemished safety record in the proposed data requirements rule is part of a troubling pattern. In this and other actions, the Agency is sending a message that it is abandoning a science-based regulatory approach based on a safety assessment of the product's characteristics, not on the techniques

Florida ringspot virus coat protein in 2008, even though USDA was prepared to deregulate the papaya, and the ringspot virus-resistant papaya variety developed by Cornell had been grown successfully in Hawaii with no adverse effects since 1996. Indeed, as early as 1993, OPP informed a BIO member that, until the Agency's plant pesticide policy was finalized, compliance with FIFRA would be voluntary for plants genetically engineered to produce viral coat proteins.

⁷ See, e.g., 40 C.F.R. §§ 174.514, 174.516.

⁸ See, e.g., *Introduction of Recombinant DNA-Engineered Organisms into the Environment: Key Issues* (NAS, 1987); *Field Testing of Genetically Modified Organisms: Framework for Decisions* (NAS, 1989); *Genetically Modified Pest-Protected Plants: Science and Regulation* (NAS, 2000).

⁹ Pesticides; Data Requirements for Plant-Incorporated Protectants (PIPs) and Certain Exemptions for PIPs; Notification to the Secretaries of Agriculture and Health and Human Services (EPA-HQ-OPP-2009-0499); 76 Fed. Reg. 14358 (Mar. 16, 2011)

¹⁰ See 66 Fed. Reg. 37772, 37775 and 37857 (July 19, 2001).

used in developing it. EPA also appears to question the fundamental structure and principles of the Coordinated Framework. In its 2007 Advanced Notice of Proposed Rulemaking, the Agency implied that it may begin to regulate plants as chemical pesticides, subject to all FIFRA requirements, irrespective of potential risk or the appropriateness of applying chemical pesticide regulations to seeds and plants.¹¹ This new regulatory policy would adversely affect trade because of the stigma often associated with the term “pesticide” – the U.S. is the only nation that attaches the pesticide label to genetic material.

The cumulative effect of the policy shifts described above is the creation of a regulatory system for low-risk products with substantial environmental benefits that is not only duplicative but also dismissive of science and experience. Such a system runs counter to the March, 2011, White House memorandum, *Principles for Regulation and Oversight of Emerging Technologies*, which calls for balanced and appropriate oversight for emerging technologies such as genetic engineering to “avoid unjustifiably inhibiting innovation, stigmatizing new technologies, or creating trade barriers.” This memorandum was issued in support of the January Executive Order (EO) 13563, which specifically ordered federal agencies to streamline regulatory programs where possible to make them “more effective or less burdensome in achieving the regulatory objectives.” Therefore, recent EPA actions that signal the Agency’s intent to further expand its regulatory jurisdiction and data requirements, in the absence of any indication that transgenic plants are less safe than conventional plants, are inconsistent with regulatory directives mandated by the current administration. They also erode the integrity of the Coordinated Framework, which has well-served U.S. consumers, growers and the environment for 25 years.

BIO is a not-for-profit trade association, and the majority of the 1,100 national and international companies that belong to BIO are small to medium enterprises. They and the academic institutions BIO represents are disproportionately harmed by actions that unnecessarily increase the regulatory burden and impede scientific innovation and product development. Recently you heard from 66 members of the National Academy of Sciences (NAS), including two Nobel Laureates, who voiced their concern over the further expansion of EPA’s regulatory coverage of genetically engineered crops “in a way to that cannot be justified on the basis of either scientific evidence or experience.” These distinguished scientists appealed to you to reconsider pending EPA actions and limit the proposed rulemaking to “requirements for substances that have traditionally been regulated by EPA as PIPs, and then to only those requirements that are fully justified on the basis of safety and sound science.”¹² As a strong and consistent supporter of a safety-based regulatory process anchored in sound scientific principles, BIO fully supports the recommendation of the NAS members and sincerely hopes that EPA will adopt those recommendations.

Administrator Jackson, the products our members develop are based on a deep understanding of the biology of organisms, and, as such, are consistent with EPA’s vision of responsible environmental stewardship and sustainability. As such, we request a thorough review of any oversight expansion by EPA or any other agency in light of the low risk and many environmental benefits provided by these products.

¹¹ See 72 Fed. Reg. 16312 (Apr. 4, 2007).

¹² Letter from Dr. Nina V. Fedoroff, et al, to EPA Administrator Lisa P. Jackson, July 5, 2011 (copy enclosed).

Because we share EPA's goals of improving environmental quality and enhancing human health, and we often agree on methods for achieving those goals, BIO, its members and EPA staff have worked together productively for many years. It is essential that we maintain this positive and constructive relationship, and BIO stands ready to work with the Agency to ensure our shared goals are realized.

We thank you for your consideration of this very important matter.

Sincerely,

A handwritten signature in black ink that reads "Jim Greenwood". The signature is written in a cursive style with a large, looping initial "J".

James C. Greenwood
President and CEO
Biotechnology Industry Organization

Enclosure

- cc: Honorable Thomas J. Vilsack, Secretary, USDA
- cc: Honorable Kathleen Sebelius, Secretary, HHS
- cc: Honorable Margaret Hamburg, Commissioner of Food and Drugs, U.S. Food and Drug Administration, HHS
- cc: John P. Holdren, Assistant to the President for Science and Technology and Director, Office of Science and Technology Policy
- cc: Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget
- cc: Ambassador Islam A. Siddiqui, Chief Agricultural Negotiator, USTR
- cc: Honorable Debbie Stabenow, Chairwoman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate
- cc: Honorable Pat Roberts, Ranking Member, Committee on Agriculture, Nutrition and Forestry, U.S. Senate
- cc: Honorable Frank D. Lucas, Chairman, Committee on Agriculture, U.S. House of Representatives
- cc: Honorable Collin C. Peterson, Ranking Member, Committee on Agriculture, U.S. House of Representatives
- cc: EPA Docket (EPA-HQ-OPP-2009-0499)



Correspondence Management System

Control Number: AX-11-001-3882

Printing Date: August 16, 2011 05:03:28



Citizen Information

Citizen/Originator: Reeder, John E.

Organization: U.S. Environmental Protection Agency
Address: 1200 Pennsylvania Avenue, NW, Washington, DC 20460

Constituent: N/A

Committee: N/A Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3882 Alternate Number: N/A
Status: For Your Information Closed Date: N/A
Due Date: N/A # of Extensions: 0
Letter Date: Aug 9, 2011 Received Date: Aug 16, 2011
Addressee: AD-Administrator Addressee Org: EPA
Contact Type: LTR (Letter) Priority Code: Normal
Signature: N/A Signature Date: N/A
File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File - FY 2011 Federal Managers' Integrity Act Assurance Letter
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OCFO	Aug 16, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Control has been created for direct review.	Aug 16, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Aug 16, 2011
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 16, 2011

Comments



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

AUG 15 2011

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM

SUBJECT: FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

FROM: John E. Reeder 
Deputy Chief of Staff

TO: Lisa P. Jackson
Administrator

PURPOSE

In accordance with the *Federal Managers' Financial Integrity Act* (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for the Office of the Administrator.

STATEMENT OF ASSURANCE

Under my leadership, the Office of the Administrator (AO) has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, the Office of the Administrator complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within AO are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

I certify that all designated staff (i.e., Senior Executive Service employees, GS-15 managers, appropriate staff, and AO's Management Integrity Advisor) and I have completed the Agency's on-line Management Integrity Training on Internal Controls.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

The Office of the Administrator (AO) is comprised of 14 offices, each of which has key program responsibilities that are specific to its individual mission and objectives. AO's key programs, functions, and activities were identified last year in conjunction with routine organizational assessments to address changing priorities, the organization's mission and structure of the individual offices, statutory and/or regulatory requirements, the Agency's Strategic Plan, as well as to support our efforts to maximize the utilization of AO's resources.

As a whole, these efforts helped us to identify specific categories for the organization's programs and key functions.

While the majority of AO's responsibilities are considered enabling and support functions that support the outcomes of all five of the Agency's strategic goals and cross-goal strategies, we also have direct reporting responsibilities for sub-objectives under several goals in EPA's Strategic Plan. As such, AO relies on Agency and organizational policies, guidance, and internal standard operating procedures (SOPs) to identify and manage the potential for vulnerabilities in its key functional and non-discretionary areas.

In mid July, AO's Associate Administrators and Staff Office Directors submitted annual assurance letters to me with the results of their FY 2011 internal control reviews. Their certifications are the basis for my attesting to the soundness of AO's internal controls. Information from the program offices is consolidated into this submission and presented in accordance with the Chief Financial Officer's FMFIA guidance. The discussion immediately below addresses the following areas:

- Adjustments to Program Review Strategies and Multiyear Plans;
- How AO works with internal and external partners to identify risk; and
- How AO uses the Lead Region processes to identify risks.

Program Review Strategies and Multiyear Plans were reviewed for more than 47 key functions and operations (e.g., budget formulation and execution; human resources management; correspondence control, FOIA, and records management; AO's audit management process; information technology management and IT security; and offices responsible for: EPA's communication and public outreach (via the media/Internet, hardcopy publications and direct public engagement and environmental education channels); homeland security communication; management and oversight of EPA's Federal advisory committee process; policy, economics, and regulatory review; Science Advisory Board; administrative law; Civil Rights; children's health protection efforts; small business program activities, etc.). AO's FY 2011 Program Review Strategies and Multiyear Plans are attached in a separate file.

Each AO office conducted reviews this year to identify new or existing areas whose internal controls could be further strengthened to support key functions/activities; i.e., the Office of Regional Operations (ORO), Office of Executive Services (OES), and the Science Advisory Board (SAB).

In addition, the offices continue to reassess the effectiveness of their internal controls and identify opportunities to realign their operations to advance the Administrator's priorities. For example, the Office of External Affairs and Environmental Education (OEAE) is considering the implementation of additional program review strategies in FY 2012 and reassessing the current internal controls for the Environmental Education Program. During this fiscal year, the Office of Environmental Education (OEE) experienced extensive professional staff changes. OEE reassessed its priorities and expanded the vision, mission, and goals of the Program to meet its broader educational outreach initiatives.

The Office of the Executive Secretariat (OEX) updated its multiyear plan to reflect completion of the Vital Records Review, Executive Correspondence Process Review, the Freedom of Information Act Process Review, and information technology initiative; i.e. converting paper-based processes to electronic filing.

The Environmental Appeals Board (EAB) revised its program review strategy and multi-year plan to support: streamlining its e-filing and e-docketing system to reduce inefficiency and redundancy in a user's submission of data and filings to the Board; and reviewing and updating its operating procedures to ensure that they are current and reflect best practices in Board operations.

The Office of Congressional and Intergovernmental Relations (OCIR) revised its program review strategies and multi-year plan, allowing staff to better identify control objectives and strategies for addressing potential vulnerabilities in the OCIR programs and operations. This was necessary due to new management and realignment of the organization.

Regarding our efforts to identify risk, AO relies on the coordination of its work with headquarters program offices including the Office of the Chief Financial Officer (OCFO) and Office of the Inspector General (OIG), the regional offices, representatives from the RTP Shared Service Center, Finance Centers, Office of Management and Budget (OMB), Government Accountability Office (GAO), Office of Personnel Management (OPM), etc. Early in FY 2010, I personally met with the Inspector General and the Deputy Inspector General to ascertain any outstanding, unresolved or new issues that may require management's attention. Based on this meeting, no significant issues were identified. Ongoing coordination with our internal and external partners helps to ensure that AO's policies, procedures and processes comply with the relevant requirements and needs of these entities and to reasonably ensure the protection of our operations, functions, and resources against fraud, waste, abuse, and mismanagement as discussed below.

Human Resources Management

AO's human resources management activities (e.g., the processing of all human resources matters, including personnel actions involving new hires, transfers, reassignments, employee relations, promotions, awards, etc.) are carried out in compliance with the policies of the Agency and OPM. Internal standard operating procedures and guidelines are in place to ensure consistency and to minimize the potential for risks.

To ensure the most effective use of our resources, I instructed AO's Principal Deputy Associate Administrators and Staff Office Directors to implement a new approach and procedures to strategically integrate personnel and budget decisions for the remainder of this fiscal year (via March 28, 2011 memorandum entitled "Strategic Personnel Management in AO"). The goal of this effort is to examine all reasonable efficiencies and alternative staffing arrangements before proposing new hires (or vacancy "backfills"), and to ensure that scarce resources are applied to the highest priorities from an AO-wide perspective. Each program office manager analyzes its workforce needs and develops a Strategic Personnel Plan for my

consideration. These plans serve as the basis for hiring decisions and ensure the effective monitoring of AO's payroll resources.

Periodic meetings are convened with internal and external customers (e.g., program office managers/staff, the RTP Shared Service Center (RTP SSC), OES analysts, etc.) to discuss the status of personnel actions, address issues and/or changes to human resources policies. Also, OES' Chief of the Administrative Management Staff in coordination with the RTP SSC, identifies individuals having a need to access human resources systems, including the Human Resources Activity Tracking System (HRACTS).

Working closely with our in-house developer of AO's Personnel Database, we are able to ensure that the appropriate program level contacts and managers have "read only" access to routine reports (i.e., the Weekly Tracking Report which monitors the daily status of personnel requests and the Monthly Staffing Report which provides detailed personnel information (i.e., grade, salary, next within grade increase, etc.)). Both processes are used to control and limit access to the sensitive/private information contained in these databases while providing managers with the information they need to effectively manage their personnel resources. In addition, we are working with RTP on the compatibility of both systems to ensure that the users have access to real-time information. OES is reviewing the data entered into the systems and the reports to ensure accuracy and consistency in meeting the users' needs.

Budget Formulation and Execution

AO's Office of Executive Services develops out-year budgets, manages and also oversees current year budgets and operating plans for all 14 offices. Payroll and FTE utilization oversight and control are provided for the organization. This work is carried out in accordance with the Agency's budget formulation policies and guidance. It is supported through coordination with OCFO, OMB, the AO managers, the use of EPA's database systems and AO's internal finance and personnel databases. The budget formulation and execution processes are monitored and/or updated through routine analyses, in preparation for periodic and/or ad hoc reports/briefings for senior managers, and the systematic coordination of data accuracy with OCFO.

We have worked diligently to increase transparency and efficiency while maintaining the appropriate level of internal controls for budget execution. Through the continued utilization of the AO Finance database, managers are kept abreast of their current budgeted and expended levels on a nearly real-time basis. Having near real-time data has allowed AO to fully utilize 2010/2011 appropriated resources prior to the funds expiring.

In addition, data from AO's Finance Database are compared to that in the Agency's Financial Data Warehouse to ensure alignment, accuracy, and completeness upon finalization of enacted operating plans. These processes and systems provide access to the information necessary for carrying out AO's budget responsibilities. Therefore, the organization is able to execute its operating plan according to the Agency's guidance and policies and reflect accurately the utilization of AO's resources.

We are continuing to improve our tracking and projection of payroll utilization in order to avoid a potential shortfall at the end of the fiscal year. AO managers identify staffing and resource needs during the current year budget discussions. OES will convene quarterly meetings with AO managers to discuss their status of funds. This additional monitoring activity will help to ensure that the usage is in alignment with execution of the operating plan.

As a result of the Agency's continued focus on accountability, greater emphasis will be placed on formulation of the out-year (FY 2013) budget. This will involve addressing funding levels and comparisons with prior-year spending earlier in the year. In anticipation of reduced resources, we will continue to work across the organization to prioritize programs and resource needs and to ensure appropriate funding for the Administrator's priorities.

Information Technology/Database/Systems Development

AO's database development staff are located in OES. Discussions regarding database security and vulnerabilities are held with system owners during the project lifecycle. System owners and managers are informed of their responsibilities to ensure compliance with EPA and OMB's mandated policies and procedures.

Risk levels vary from application to application due to differences in data sensitivity and availability. System owners may assume some level of risk which is documented in security plans and maintained by the system owners, as well as other documentation as required by Agency policy.

Information Security/Continuity of Operations Program (COOP)

AO's information security program and COOP are managed by staff in OES. Responsibilities include oversight of the organization's security practices, providing advice and guidance to managers and staff to ensure the prevention of information breaches, conducting routine Agency and federal level security assessments of major applications and general support systems; and ensuring that AO personnel complete the annual IT security training.

The COOP team monitors AO's capabilities to perform essential functions during or in the event of a security threat or an emergency. The methods and frequency of assessing and monitoring the internal controls associated with these functions are intrinsic to the Agency's policy, guidance, and standard operating procedures. Routine tests are conducted to ensure the readiness of AO personnel in the event of a COOP emergency. In addition, internal standard operating procedures are in place to support the continuity function.

Correspondence Control

AO's Office of the Executive Secretariat (OEX) engages internal and external partners in identifying risk through its correspondence and Correspondence Management System (CMS) focus group meetings, the AO records contact network and the AO FOIA contact network. Each group meets on a monthly basis to discuss issues of concern, changes to regulations, policies or procedures and best practices. Not only are new or emerging risks quickly identified, the groups

work to mitigate risks by revising operating procedures, partnering with external organizations, such as the Office of General Counsel, National Archives and Records Administration and National Computer Center staff, and reporting to the office director and other AO senior staff.

Coordination with Lead Regions

AO coordinates its work with the Lead Regions through several mechanisms; e.g., the Office of Regional Operations (ORO) serves as AO's ombudsman and critical link between the senior leadership in headquarters and the regional offices. This Office is responsible for ensuring that the regional views and perspectives are incorporated into the formulation of Agency and national policy decision making. Information between headquarters and the regions is shared via the Lead Region System (LRS), a process designed to ensure the quality of Agency decisions by providing an organized, consistent and effective mechanism for regional input into the major phases of decision making. The LRS provides a forum for senior level discussions to incorporate regional perspectives into AO's planning, budget, and programmatic work. In addition, ORO serves as the Agency lead to the Lead Region Coordinators Network, providing training to personnel on the roles and responsibilities of a Lead Region Coordinator; hosting monthly conference calls with the Lead Region Coordinators; and participating with them on Agency-wide workgroups to synthesize and factor regional perspectives into national dialogues.

AO's Office of Homeland Security (OHS) works closely with the program offices and the Lead Region for Homeland Security (i.e., Region 8) in evaluating progress toward meeting homeland security responsibilities. In FY 2011, a review and evaluation of the Agency's homeland security requirements, accomplishments and remaining challenges was conducted. This strategic review of existing statutes, presidential directives and national plans that contain significant homeland security taskings will result in a comprehensive update to EPA's Homeland Security Priority Workplan, help to prioritize work and fill scientific and technical gaps. OHS also continues to interact with external stakeholders (e.g., White House National Security Staff, and other federal agencies) to gather input on EPA's priorities and to coordinate planning, research, and information sharing.

FMFIA coordination with the Lead Region (Region 7): AO offices that identify new/emerging issues or have the lead for addressing Agency-level weaknesses, work with the Lead Region Coordinator to develop the organization's formal response. In FY 2011 and prior years, Lead Region Coordinators have solicited input from the regional offices and submitted coordinated responses on AO's corrective action plan for the Agency-level weakness entitled "Program Evaluation." This coordination work and the regional responses are documented in each of AO's annual Assurance Letters to the Administrator. The FY 2011 regional responses are attached under a separate file.

Regarding the budget process, regional input on the identification of AO's program priorities, areas identified for investment/disinvestment and the development of the out-year budget is coordinated through the Lead Region Coordinator. The Lead Region Coordinator gathers information summarizing the impacts of these activities from regional counterparts for submission to AO. As part of EPA's FY 2013 Budget Planning effort conducted in June 2011, AO worked with the Lead Region Coordinator to identify activities and programs that

represented the highest and lowest priority levels for both headquarters and across the regions. This collaborative effort ensured that both headquarters and the regions reached consensus on the direction of AO's key areas of focus going into the July 2011 Budget Forum.

RESULTS OF INTERNAL CONTROL REVIEWS: Over Programmatic Operations

Budget Formulation: The FY 2010 and 2011 review results indicated that our processes, procedures, and supporting documentation for each budget function are effective and minimize the potential for the risks. An additional internal control for monitoring activities was identified and involves convening quarterly meetings with the Staff Office Directors to discuss their status of funds.

The AO Audit Follow-up Coordinator uses a "tickler" system for periodic status reviews of corrective actions and to ensure that due dates are met. Data is updated in MATS. Electronic copies of the status reports are retained as records. These activities help to ensure that the data are current and available for incorporation into the Agency's semi-annual reports to Congress. As of June 2011, all audits assigned to AO with Corrective Actions Pending were closed.

Database/Systems Development: While adequate internal controls were in place upon review of the database/systems management function and its standard operating procedures, the need to further strengthen them was identified. We are committed to developing database application solutions quickly, effectively and securely, and thus believe that it is imperative to maximize the transparency of standard operating procedures and processes as well as increase formal collaboration between AO's development staff, system owners, and IT security staff. OES personnel will continue to assess, develop and implement follow-up actions as needed.

IT Security: Standard operating procedures are reviewed and updated, as necessary for all general support systems (GSS) and major applications (MA). Each GSS and MA's security plan is reviewed every 3 years or if there is a major change in the configuration according to the start date of the systems' lifecycle. As a result of effective internal controls, AO continues to remain compliant with OMB and the National Institute of Standards and Technology (NIST) standards for all reportable general support systems and major applications.

Based on the findings of the annual review, new plans of action and processes were implemented for initiating new GSS and MA systems into the Agency's technical environment. This includes initial meetings with the system owners, briefings, lifecycle, financial, training and security assessments to support the system owners' decision making activities.

Internal control review results reported by several AO offices are summarized below.

The Office of Children's Health Protection (OCHP) began the implementation of its multi-year Strategic Plan. Baseline data were collected to establish targets for goals, objectives and measures. A database also was developed to track progress towards meeting the goals and objectives of the plan. OCHP is using this strategy to direct its annual planning, which serves as the annual program review. This internal control will help to enhance OCHP's ability to minimize potential risks.

Reviews for a majority of the Office of Congressional and Intergovernmental Relations' (OCIR) programs and operations were completed between Fiscal Years 2010 and 2011. The reorganization in the Office of Congressional Affairs (OCA) converted the non-supervisory team leaders to supervisory analysts for their respective teams. This created another level of accountability within the management chain and has been effective in allowing the operations to run more efficiently as anticipated. A review of the internal controls for OCA operations is underway.

While developing the Action Plan for the Agency's FY 2011 Cross-cutting Strategy on Strengthening State, Tribal and International Partnerships, an important component of EPA's Strategic Plan, OCIR committed to completing a review of the National Environmental Partnership Performance System's (NEPPS) implementation practices and identifying new approaches to improve overall effectiveness, public credibility and program accountability. This review currently is underway and on track to meet the September 30, 2011 deadline.

The Office of the Executive Secretariat (OEX) continued its ongoing reviews of the low-risk control objectives identified in its program review strategies. No new vulnerabilities were identified for the vital records and correspondence reviews. The FOIA review identified vulnerabilities related to paper-based procedures and lack of engagement of senior political staff. Following the review, the FOIA Coordinator undertook a campaign of outreach and education, which succeeded in building rapport and confidence in the FOIA team and process, and a conversion of the paper-based processes to more efficient technology-based processes.

OEX delayed distribution of the Correspondence Management System Customer Satisfaction Survey pending completion of upgrades to both the server/network infrastructure and core application software (Captive InputAccel and EMC Documentum). The CMS System Administrator anticipates that these changes will address several known user concerns. OEX management believes that a survey that gauges the effectiveness of these changes in addressing those concerns would be much more valuable than one that duplicates information about known problems and pending user requests. The upgrade work is scheduled to be completed in late FY 2011 and the survey will be conducted shortly afterward.

The Office of Federal Advisory Committee Management and Outreach (OFACMO) completed internal control reviews for the following key program functions: FACA Policy and Oversight for all 22 EPA Federal Advisory Committees: FACA Policy and Guidance/Sub-activity: Guidance Development; FACA Oversight: Committee Monitoring and Evaluation; and Training and Outreach/Sub-activity: DFO and Committee Member Orientation and Training. No vulnerabilities were identified.

The Science Advisory Board (SAB) completed a review of its records for all SAB advisory meetings held from 2003-2009 and the process for compensating advisory members who served as SGEs during calendar year 2010. Internal procedures are in place to verify and track the payments. Another round of internal control reviews of the 2010-2011 FACA records will be conducted in FY 2013.

As required under the Federal Advisory Committee Act (FACA), records of advisory activities must be kept and archived according to the appropriate records schedule. Internal

controls were strengthened by establishing an SAB product database that houses information and records related to federal advisory meetings. Workflow procedures identifying which records are retained according to NARA schedules and the roles and responsibilities of SAB personnel for data entry and approval were instituted. The SAB Staff uses this product database with new features that periodically generates a list of public meetings and related records to ensure that the data are entered within the deadlines imposed by the GSA regulations.

The Office of Policy's (OP) internal control reviews are still in progress. The National Center for Environmental Economics' (NCEE) Economic and Decision Sciences (EDS) program review is expected to be completed by late October 2011 and the Office of Policy's Office of Regulatory Policy and Management (ORPM) Action Development Process (ADP) program review is expected to be completed by June, 2012.

A Statement of Work to support OP's FMFIA review of the EDS program and related research grants was completed and approved for funding in March 2011; the contractor's Work Plan was approved in April. The primary goal of this evaluation is to determine whether resources dedicated to the EDS program are being used effectively.

ORPM will analyze the beginning stages of the Agency's *Action Development Process* (ADP). The ADP represents the internal policies and procedures used by the Agency to facilitate development of informed, timely and well-supported regulations. Through the ADP, the Agency publishes approximately 100 regulations signed by the Administrator each year. This program review will be conducted in consultation with the Agency's Regulatory Steering Committee and Regional Regulatory Coordinators. ORPM is in the process of securing contractor support.

The Office of Small Business Program's (OSBP) Asbestos and Small Business Ombudsman (ASBO) Program's review of potential procurements revealed no instances of contract bundling, to date. In the past the internal control review process has allowed OSBP to identify and mitigate potential instances of bundled contracts.

OSBP also is scheduling acquisition planning meetings with all EPA headquarters and regional offices. These meeting are designed to ensure that small business procurements are fairly represented in the Agency's procurement forecast for FY 2012– FY 2014. All acquisition planning meetings are scheduled to be completed no later than October 1, 2011.

In FY 2010, the Administrator commissioned an independent review of the Office of Civil Rights (OCR) by the consulting firm Deloitte, Inc. In April 2011, Deloitte produced a report that found a number of deficiencies and challenges for the Office. In response, the Administrator established a Civil Rights executive group tasked with evaluating the Deloitte report and other information and to develop recommendations for her consideration. It is anticipated that the recommendations will be developed by September 30, 2011.

RESULTS OF INTERNAL CONTROL REVIEWS: Over Financial Activities (OMB Circular A-123, Appendix A)

Description of the Control Environment: See PDF Form AL 2011-005 submitted as a separate file.

Unliquidated Obligations (ULOs): Information from all AO offices was selected for testing the effectiveness of the internal control (i.e., monitoring ULOs). Using the 2011 report in the ULO Desktop Tool, we were able to cross check the Reason Codes that AO's Funds Certifying Officials assigned to funding documents against file documentation maintained in the Office of Executive Services. Based on the results of the review and documentation obtained, AO's internal control appears to be suitably designed and operating effectively to ensure that the program offices are monitoring the status of their obligations and expenditures, and fully expending or de-obligating funds, where appropriate. See PDF Form AL 2011-008(c) submitted as a separate file.

Grants Management: In May 2011, we updated our guidance (entitled "Guidance for AO's Project Officer File Structure") with a recommended file structure for the AO grants file system. The update also includes examples of appropriate file documents and the link for records management information. These improvements were made in response to the Office of Grants and Debarment's FY 2010 review (i.e., the Comprehensive Performance Review (CPR), Assessing Conformance with EPA Requirements Establishing and Managing Grant Files).

CURRENT WEAKNESSES

The Office of the Administrator has the lead for addressing the Agency-level weakness entitled "Program Evaluation." Please see AL Form 2011-003 (submitted as a separate file) for a discussion on the status of our progress. Based on comments received, the regions are in agreement with our actions taken to date to address the OIG's concerns. Copies of the detailed regional comments and examples of their activities that support program evaluation are attached in a separate file.

MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, AND OMB

The Office of the Administrator is submitting responses to the following management challenges:

Office of the Inspector General's "Need for a Greater Coordination of Environmental Efforts." This management challenge is addressed in the attachment AL Form 2011-004 submitted as a separate file.

General Accountability Office's "Incorporating Protection of Children's Health as an Integral Part of EPA's Everyday Business." The Office of Children's Health Protection (OCHP) has management controls in place to address this management challenge. The development of an Agency-wide cross cutting strategy for children's health and the completion of the OCHP Strategic Plan have increased the Agency's focus on children's health protection issues. In

addition, specific actions were established to meet Office goals. AO's response to this management challenge is presented in the attachment AL Form 2011-004 submitted as a separate file.

General Accountability Office/Office of the Inspector General's "Oversight of Delegations to States." Although OCIR is not directly responsible for state programs or oversight, the Office is responsible for working with national program managers, regions, and other appropriate offices to identify and address areas where the Agency could collaborate with the states to continue data improvements and national program accountability. AO's response to this management challenge is presented in the attachment AL Form 2011-004 submitted as a separate file.

NEW OR EMERGING ISSUES

Information Technology/Database-Systems Development:

During the internal control review of AO's database systems development function, we identified as an emerging issue, the need to further improve standard operating procedures and processes to: ensure consistency, provide a more comprehensive understanding of how this function is managed, continue to adequately minimize risks and ensure compliance with Agency and OMB security requirements. We believe that in this environment of decreasing budgetary resources yet increasing demand from AO leadership and other NPMs for developing database application solutions quickly, effectively and securely, it is imperative to maximize the transparency of standard operating procedures and processes as well as increase formal collaboration between development staff, system owners, and IT security staff.

In addition, increasing the transparency and effectiveness of the database systems development function involves a more formal process for addressing issues such as determining whether the systems meet the quality standards set by the system owner; whether systems meet minimum security requirements; ensuring that business processes are adequately documented and well understood; minimizing or identifying deficient product development and life cycle management; developing systems that are reliable or producing complete, accurate, and valid information; and ensuring customer satisfaction. To address these issues, AO's Office of Executive Services (OES) will develop a workplan which may include the follow-up actions listed below:

- Reviewing the database systems development functions of other NPMs. This may also include shadowing or detail assignments;
- Developing a Business Case template form to be completed for all new database development requests. The template will include a series/checklist of questions to address; for example, scope of the project, estimated time and resource burden, prioritization level, whether a new database development is required or whether an existing database can be augmented, the type/sensitivity of the data source, etc. The form would be completed in a collaborative effort by the senior developer, system owner, and as appropriate, AO's IT security staff;

- Improving the process of prioritizing requests and providing more guidance to the development staff on the most pressing and critical database needs of AO and/or the Agency;
- Conduct formal monthly meetings between OES Director, Chief of the Resources Management Staff and development staff to discuss the status of on-going database projects; and
- Develop a brief post-development survey for distribution to system owners after database deployment to solicit formal feedback and customer satisfaction with completed applications.

Homeland Security Communication:

In FY 2011, the President signed the Food Safety Modernization Act (FSMA). FSMA assigns EPA new leadership responsibilities in coordinating with the Department of Homeland Security, the Department of Health and Human Services, and the U.S. Department of Agriculture, to develop and exercise standards, plans and protocols for the decontamination and disposal issues following a food or agricultural emergency. We are working closely with headquarters and regional offices and our interagency partners to address these new requirements.

OHS is also working closely with headquarters offices and the regions to create a structured, systematic Foreign Visitor Screening Program. This program is designed to identify and mitigate the unintended loss of sensitive information or technology to a foreign government or organization. One of the first pillars of this counter-defensive program is the drafting of an EPA Order. The Order is necessary to ensure that EPA's scientific and technical expertise, which is highly valued in the United States and across the world, is adequately protected. It is also being written to ensure that AO's efforts to collaborate with its foreign partners continue to be mutually beneficial.

The Office of the Administrator does not believe that the issues described above rise to the level of a material or Agency weakness. We will continue to monitor each issue and report as appropriate.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

The **Compliance Review of AO's FMFIA process** was conducted by OCFO in April. Excerpts from the draft findings are presented below.

- In general, AO managers have a strong understanding of FMFIA concepts and processes, and have incorporated both into their daily management activities.
- It is clear that AO's senior management (including the Deputy Chief of Staff and the Administrator) consider FMFIA meaningful, and has created a culture that supports and encourages managers to perceive management integrity as a critical component of their

responsibilities. Management Integrity is viewed as vitally linked to their programmatic priorities.

- AO managers do not view FMFIA as a once-a-year process, but as an opportunity to create a snapshot of ongoing management activities. While some managers reported that they may not actively label these ongoing management activities in terms of “FMFIA,” they understand how the annual assurance letter process connects to tools already in place.
- Several managers noted that “OCFO needs to continue to ensure that it communicates how FMFIA adds value to what they already do, so that they will see it as more than a paper exercise.”

Budget Execution: Unliquidated Obligations (ULOs): AO’s database development staff created the Agency’s ULO Desktop Tool to review and track ULOs and ushered in an electronic review process. The effective monitoring of ULOs was previously an Agency-wide concern, as historically ULOs were monitored via a manual process with inconsistent oversight.

- In addition, OES staff can monitor the status of unliquidated obligations on a routine basis, and work with individual AO offices to reconcile the ULOs, particularly those that are the most outstanding in terms of age and highest dollar value. This has enabled AO to significantly reduce the number of outstanding ULOs.

Working Capital Fund (WCF): Over the past year, a large-scale effort was conducted to review and reconcile WCF charges. This effort included:

- Revising the methodology used for tracking AO’s WCF costs by breaking out billing codes at the program office (RC) level; this allowed programs to become more aware of their WCF expenditures. In addition, this enabled OES staff to work with the individual AO offices to review and monitor their WCF service needs and expenditures.
- Ensuring the stoppage of services for personnel no longer in AO.
- Reviewing WCF charges for existing staff and ensuring that the proper levels of services are aligned with their job function. As a result, AO programs are proactive in cost cutting wherever possible. AO realized a 28% decrease in FY 2011 spending compared to the same point in time for FY 2010.

COOP: In May 2010, AO’s Office of Executive Services provided the oversight and monitoring of an annual emergency scenario, Eagle Horizon 2010, which demonstrated the use of the organization’s essential functions. The scenario also tested the AO’s ability to effectively use the Agency’s COOP policy, guidance, and standard operating procedures. The Federal Emergency Management Agency (FEMA) evaluated AO’s ability to resume essential functions during this emergency scenario; and the Agency received a “GREEN” (i.e., passing) rating.

Assistance Agreements: The Grants Coordinators' Workgroup conducted 15 file reviews in FY 2011, monitored closeouts and convened quarterly meetings with the Grants and Debarment (GAD) Division. These quarterly meetings help us to remain informed of the Agency's latest policies and procedures. AO's Post Award Monitoring Plan was identified as a model template for the Agency.

Administrative Efficiencies: AO is in the process of reviewing and analyzing efficiencies and the possibility of establishing Centers of Excellence to maximize the effective utilization of its resources; and ensure that the workforce has the necessary skills to carry out the Administrator's priorities and meet the needs of the organization. The following three workgroups were established in support of this effort.

- The Hiring Workgroup is working toward identifying problems/bottlenecks, and ways to streamline the process including enhanced coordination with the RTP Shared Service Center and other external entities. The OES analysts are reviewing the recommendations addressing workload, the hiring and recruitment processes and timeframes and will follow-up with the senior managers.
- The Travel Administrative Efficiencies Workgroup was created to (1) evaluate how each office manages travel; (2) identify problem areas and opportunities to increase efficiency; (3) improve effectiveness in the process; and (4) achieve cost saving. This workgroup developed a questionnaire (to be completed by all travelers and preparers) with the goal of identifying areas in need of improvement and necessary skill sets for both the travelers and travel preparers. The results will be analyzed. The Workgroup intends to develop a "User's Guide/Best Practices Guide to assist travelers and the processors of travel requests.
- The Records Management Workgroup is currently developing records management policies and an implementation strategy.

Discussion of Accomplishments per AO Program Office:

Office of Executive Services (OES): In January 2011, a new permanent Resources Management Staff (RMS) Chief was hired, which has provided stability and completed the transition from the former Chief. As part of the transition effort to quickly and effectively on-board the new Chief, as well as to increase coordination with AO offices, a series of "meet and greet" sessions were conducted with representatives from each of AO's offices and OCFO. These sessions were extremely successful, not only for the transitioning of the new Chief, but to inform all participants on the successes, issues and challenges related to AO's budget formulation, budget execution, and payroll/personnel forecasting.

- With a new permanent RMS Chief in place, and through a highly coordinated effort between headquarters offices and the Lead Region, OES successfully completed a FY 2012 President's Budget Request on behalf of AO. With strict guidelines to limit spending, OES was able to work with its internal and external customers, reach consensus on all difficult budget decisions, and prepare a budget request for AO that was fiscally responsible while maintaining sufficient resources to meet the needs of the Agency and the Administrator's

priorities. OES fully expects to continue and expand this collaborative effort during the development of the FY 2013 budget request.

Office of Homeland Security (OHS) successfully used intelligence and national security information to prepare senior Agency officials for international meetings and negotiations. OHS also participated in a series of exercises, including National Level Exercise 2011, which was a government-wide drill designed to test the ability to respond to a major earthquake in the central United States.

October 2011 Lead Region Transition: Office of Regional Operations (ORO) successfully led, managed, and coordinated the FY 2011-2012 lead region transition as follows: ORO coordinated with the Regions as they identified and hired new Lead Region Coordinators and managed the process for the selection of backups. In support of the transition effort to quickly and effectively assemble the team before October 1st, ORO hosted a two day intensive training for the new Lead Region Coordinators. Evaluation results from the training were extremely positive and these sessions were very successful in providing participants with expertise in budget, planning and programmatic areas.

Office of External Affairs and Environmental Education (OEAAA): The Office of Web Communications (OWC) launched the One EPA Web project to restructure EPA's website. The Office worked with OEI, headquarters and regional offices on efforts to firmly establish social media as a core communications strategy; OWC established a new effort using social media to answer questions during the Japanese Nuclear emergency.

- A variety of free events at the National Mall were coordinated to celebrate Earth Day to include: an environmental crime scene forensics demonstration, cutting-edge automotive technology, climate change habitat loss exhibits, environmental videos, an interactive kid's book, and environmental demonstrations, etc.
- The Office of Environmental Education led an intra-agency process to develop the ecoAmbassadors program, which meets the Administrator's priority of expanding the conversation on environmentalism and working for environmental justice. The goal is to more actively engage with nontraditional stakeholders; it employs a train-the-trainer model to expand the reach of the program beyond the initial participants.
- In FY 2011, the OnCampus ecoAmbassador program hired 27 students at 19 schools as interns to be official EPA representatives. They were tasked with implementing one of four EPA voluntary programs on their campuses (WasteWise, Energy Star, the Pesticide Environmental Stewardship Program, or the Green Power Partnership) and organizing three awareness events (Radon, Fix-a-Leak week, and Earth Day). Eighteen students from 12 schools successfully completed the program. Several students made major changes on their campuses – they started the first recycling program, began composting food waste, changed campus landscaping policy, and expanded recycling to a wider audience. The awareness events were also very successful – over 5,000 students were reached during the three events at all the participating schools.

Office of Children's Health Protection (OCHP): Managing the Children's Health Protection Advisory Committee (CHPAC): In addition to renewing the charter for the CHPAC and enhancing diversity among the membership, OCHP identified two near-term cross-cutting topics for the CHPAC to consider; i.e., Indoor Air and Prenatal Exposures to Chemicals. OCHP worked with EPA offices to create charges for the Committee. The CHPAC delivered recommendations to the Administrator.

In addition, OCHP reviewed and identified necessary science-related activities as part of the process for developing the Office's strategy. A number of key areas of focus were identified for activities in FY 2011 and FY 2012. OCHP staff participated in Agency-wide research planning, risk assessment method development and science policy implementation efforts.

Office of Congressional and Intergovernmental Relations (OCIR) led the Agency's review of potential worksharing opportunities among state partners. The ongoing efforts of this review identified worksharing opportunities that will lead to better utilization of resources and strengthened partnerships among EPA and the states.

- A best management practice involves savings in travel expenditures due to the increased use of regional resources and technology (i.e., video conferencing). Examples include the recent Regional Congressional Liaison meeting held via video teleconference. Alternatives for travel are also being identified for appropriate LGAC meetings.

Office of the Executive Secretariat (OEX): Consistent and timely review of the accuracy and completeness of records, processing speed and overdue assignments has resulted in significant performance improvements. In FY 2010, the team processed 11,805 pieces of controlled correspondence in an average of 2.11 days, exceeding the Office standard of 2.00 days. During the first nine months of FY 2011, the team processed 8,519 pieces in an average of 0.94 days, a reduction of 55 percent.

- Paper-based processes and procedures for managing the Administrator's and Deputy Administrator's correspondence records were converted to electronic files, eliminating the need to store and manage more than 11,000 paper files each year and reducing Federal Records Center storage costs.
- The Correspondence Management System (CMS) administrator worked to change the way costs are recovered through the Working Capital Fund. Recognizing that the per-user, per-month billing model was inherently flawed and discouraged user subscriptions, he successfully lobbied the WCF Board to move to a flat fee assessed per Responsible Program Implementation Office (RPIO). This change eliminated barriers to use, and user subscriptions increased by approximately 14 percent since the beginning of FY 2011. This increase and more logical rate structure should assure a stable source of funding until the application is retired.
- The CMS team embraced the EPA's green information technology, server consolidation and cloud computing initiatives, volunteering to migrate to the new technologies, serving as a test

case and assisting in engaging other application owners to encourage adoption. CMS now serves as a model of efficiency and progressive use of emerging technologies.

- By converting paper-based processes to electronic applications, OEX has dramatically lowered costs to FOIA requestors by eliminating duplication fees – unless otherwise requested, responsive records are provided to requestors as Portable Document Format files instead of paper copies. Increased use of technology in FOIA processing also supports the Telework Enhancement Act of 2010. OEX can now offer telework opportunities to an entire team. The AO FOIA Coordinator now teleworks once a week. The new procedures also have resulted in greater accountability, facilitated easier access to documents and made redaction much simpler and faster. Together, these initiatives have helped AO meet its legal obligations more effectively and efficiently and provide better service to the public.

Office of Civil Rights (OCR) revised its internal investigation process to allow formal complaints to be filed on the basis of sexual orientation (EPA Order 1000.31A). In addition, OCR:

- Successfully and timely submitted the MD-715 report to EEOC;
- Had the highest percentage of employees trained under the No Fear Act (i.e., 95%);
- Included EEO language in the PARS standards of every supervisor and manager;
- Closed approximately 18 of the oldest Title 7 EEO complaints;
- Finalized the Administrator’s 2011 EEO Policy Statement; EPA’s new Anti-Harassment Policy; and the “Limited English Proficiency” Order; and
- Developed Anti-Harassment Procedures (to be negotiated with the unions).

Office of Small Business Programs completed an upgrade to the Disadvantaged Business Enterprise (DBE) Program Integrated Grants Management System (IGMS) module and will continue to monitor the data for accuracy.

- Developed a comprehensive small business training course for the Agency’s acquisition community which will include updates on new legislation and regulations impacting small business contracting. Personnel participating in the courses will receive continuous learning credits.

Office of Federal Advisory Committee Management and Outreach adopted a best management practice that involves separating the expenditures for each federal advisory committee that it manages into categories for travel and contract fees. As a result, the Office can better forecast additional expenditures that may be needed to support the committees. Also, these expenditures can later be easily reported in GSA’s federal advisory committee database.

Science Advisory Board (SAB): In order to save time and resources in responding to FOIA requests, the SAB instituted an electronic process (e-FOIA) to respond to public requests for information not available on the SAB website. Rather than printing thousands of e-mails and assembling multiple boxes of hard copies, a disk is provided to the requester and a copy is maintained for SAB’s records. In the pilot test of the e-FOIA process, staff time was reduced from 3 weeks to 3 hours.

Environmental Appeals Board's review of e-filing practices resulted in committing funds to have RTP write a new program for submission of electronic filings to the Board. This program also will be used by the Office of Administrative Law Judges, making the submission systems consistent.

Office of Administrative Law Judges in keeping with its GPRA goals, maintained a consistent track record in completing or closing out cases by decision or settlement, on average, within 18 months of receipt. OALJ also:

- Extended ADR opportunities to cases referred by other federal agencies under interagency agreements;
- Revised the Administrative Law Uniform Citation Style Sheet to ensure consistent, internal citation of cases, regulations and rules in the area of administrative litigation;
- Developed a process by which the office-level orientation manual for new hires, law clerks, and student volunteers is kept current; and
- Initiated an effort to modify all existing interagency agreements to be on the same fiscal schedule, contain identical procedural and substantive clauses, and to improve reimbursement processes.

CLOSING

The Office of the Administrator is committed to evaluating and reviewing its internal controls on a routine basis to maintain quality control, avoid vulnerabilities, and ensure consistency in our work processes and compliance with Agency and Federal laws and regulations. If you have questions regarding our efforts, please feel free to contact me at 564-6082.

ATTACHMENTS

- AO FY 2011 Program Review Strategies and Multiyear Plans
- Description of Control Environment - PDF Form AL 2011-005
- A-123 Review of Unliquidated Obligations (ULOs) – PDF Form AL 2011-008(c)
- Update on Agency-level Weakness “Program Evaluation – PDF Form AL 2011-003
- Regions’ Responses to AO’s Agency Level Weakness: “Program Evaluation” – PDF Form AL 2011-003
- AO Responses to Management Challenges: 3 PDF Forms AL 2011-004
 - “Need for a Greater Coordination of Environmental Efforts;”
 - “Incorporating Protection of Children’s Health as an Integral Part of EPA’s Everyday Business;” and
 - “Oversight of Delegations to States”

cc: Annette Morant, OCFO
Aileen Atcherson, OCFO

Patrick Gilbride, OIG
Diane E. Thompson, Chief of Staff



Correspondence Management System

Control Number: AX-11-001-3815

Printing Date: August 17, 2011 04:46:29



Citizen Information

Citizen/Originator: Mandyck, John

Organization: Carrier Corporation

Address: Address Unknown

Wagner, Mark

Organization: Johnson Controls

Address: Address Unknown

DeBullet, Julian

Organization: Daikin/McQuay International

Address: Address Unknown

Gilley, Kyle

Organization: Lennox International

Address: Address Unknown

Modi, David

Organization: Ingersoll Rand Company

Address: 800 Beaty Street, Building E PO Box 940, Davidson, NC 28036

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3815

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Aug 30, 2011

of Extensions: 0

Letter Date: Aug 15, 2011

Received Date: Aug 16, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File - We are writing to request a rulemaking to close a loophole in current law regarding air conditioning condensing units designed to use hydrochlorofluorocarbon-22 ("HCFC-22") refrigerant. In December 2009, the Environmental Protection Agency ("EPA") published a final rule to ban the sale or distribution of air-conditioning and refrigeration appliances containing HCFC-22 and HCFC-142b.

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: N/A

Lead Information

Lead Author: Sandra Owusu-Ansah

Office: OAR-OAP-SPD

Due Date: Aug 25, 2011

Assigned Date: Aug 17, 2011



Correspondence Management System

Control Number: AX-11-001-3815

Printing Date: August 17, 2011 04:46:29



Complete Date: N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Aug 16, 2011	Aug 30, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Martha Faulkner	OAR	OAR-OAP	Aug 16, 2011	Aug 25, 2011	N/A
Instruction: OAR - Prepare response for the signature of Gina McCarthy, Assistant Administrator for the Office of Air and Radiation (OAR).					
Louise Staley	OAR-OAP	Sandra Owusu-Ansah	Aug 16, 2011	Aug 25, 2011	N/A
Instruction: N/A					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Control Created	Aug 16, 2011
(b) (6) Personal Privacy	OEX	Assign OAR as lead office	Aug 16, 2011
Martha Faulkner	OAR	Sabrina Hamilton proxy for Martha Faulkner: Accepted the group assignment	Aug 16, 2011
Martha Faulkner	OAR	Sabrina Hamilton proxy for Martha Faulkner: Assign OAR-ORIA as lead office	Aug 16, 2011
Michele Painter	OAR-ORIA	Accepted the group assignment	Aug 16, 2011
Michele Painter	OAR-ORIA	Sent to Martha Faulkner for Reassignment Request	Aug 16, 2011
Martha Faulkner	OAR	Sabrina Hamilton proxy for Martha Faulkner: Request for Reassignment Approved	Aug 16, 2011
Martha Faulkner	OAR	Assign OAR-OAP as lead office	Aug 16, 2011
Louise Staley	OAR-OAP	Accepted the group assignment	Aug 16, 2011
Louise Staley	OAR-OAP	Accepted the group assignment	Aug 16, 2011
Louise Staley	OAR-OAP	Assign Sandra Owusu-Ansah as lead	Aug 16, 2011
Sandra Owusu-Ansah	OAR-OAP-SPD	Take task	Aug 17, 2011

Comments

August 15, 2011

RECEIVED

2011 AUG 16 AM 7:34

OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Lisa P. Jackson
Office of the Administrator
Ariel Rios Building
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing to request a rulemaking to close a loophole in current law regarding air conditioning condensing units designed to use hydrochlorofluorocarbon-22 ("HCFC-22") refrigerant. In December 2009, the Environmental Protection Agency ("EPA") published a final rule to ban the sale or distribution of air-conditioning and refrigeration appliances containing HCFC-22 and HCFC-142b.¹ This rule (hereinafter referred to as the "Appliance Rule") established regulations that apply to appliances and components manufactured on or after January 1, 2010.

While the Appliance Rule bans the sale and distribution of appliances that are *precharged* with HCFC-22 at the time they are manufactured or imported into the United States, EPA did not apply the same prohibition to appliance components that are *uncharged*. Instead, the Appliance Rule allows major components of an air conditioner or refrigeration unit to be shipped "dry" or with a holding charge containing an inert gas and then charged with refrigerants on-site. This situation creates a gaping loophole in the Appliance Rule and allows the continued widespread use of HCFC-22.

On February 3, 2011, EPA received a petition to amend the Appliance Rule and close this loophole. This petition and subsequent communications from other companies have outlined multiple problems contained in the final Appliance Rule provisions concerning appliance components and included proposed regulatory language. The below signed companies respectfully request that you promptly take action and propose measures to prevent the sale or distribution of newly manufactured HCFC-22 based sub-systems after an established date.

The concerns expressed by multiple parties over the past 18-months are even more pressing today. The sale of uncharged HCFC-22 sub-systems is proliferating. In certain cases, the purchase of such units is encouraged through discounts offered on the HCFC-22 refrigerant itself. When these systems are ultimately assembled and charged in the field, there can only be

¹ Protection of Stratospheric Ozone: Ban on the Sale or Distribution of Pre-Charged Appliances, 74 Fed. Reg. 66,450 (December 15, 2009).

one result: our nation's reliance on HCFC-22 will continue and the transition to newer, more efficient and environmentally preferable alternatives will be delayed. This is directly opposite to the result originally contemplated in the Appliance Rule.

If EPA does not act, more ozone-depleting chemicals will be released to the environment. The long-lifespan of air-conditioning equipment ensures that additional HCFCs will be emitted during normal servicing of the systems (and under EPA's own analysis, when such systems are ultimately retired). Maintaining current regulations will lessen the environmental gains that can be obtained by transitioning away from HCFC-based technology. In addition, allowing on-site charging of major HCFC-22 sub-systems will prevent the proper "matching" of system components to achieve maximum energy efficiency. The substantial gains in energy efficiency that can be made by utilizing new refrigerants in systems specifically designed for their use will be minimized or lost.

We do not believe this result is what EPA originally intended – or what EPA and Administration policy would currently support. Therefore, we respectfully request that you amend the Appliance Rule to eliminate the uncharged component loophole.

Sincerely,

Carrier Corporation
Contact: John Mandyck
john.m.mandyck@carrier.utc.com

Daikin/McQuay International
Contact: Julian de Bullet
julian.debullet@mcquay.com

Ingersoll Rand/Trane
Contact: David Modi
dmodi@irco.com

Johnson Controls
Contact: Mark Wagner
mark.f.wagner@jci.com

Lennox International
Contact: Kyle Gilley
kyle.gilley@Lennoxintl.com

cc: Gina McCarthy
Drusilla Hufford



Correspondence Management System

Control Number: AX-11-001-3871

Printing Date: August 17, 2011 12:00:46



Citizen Information

Citizen/Originator: Armendariz, Alfredo

Organization: EPA Region 6
Address: 1445 Ross Avenue, Dallas, TX 75202

Constituent: N/A

Committee: N/A Sub-Committee: N/A

Control Information

Control Number:	AX-11-001-3871	Alternate Number:	N/A
Status:	For Your Information	Closed Date:	N/A
Due Date:	N/A	# of Extensions:	0
Letter Date:	Aug 12, 2011	Received Date:	Aug 16, 2011
Addressee:	AD-Administrator	Addressee Org:	EPA
Contact Type:	LTR (Letter)	Priority Code:	Normal
Signature:	N/A	Signature Date:	N/A
File Code:	401_127_a General Correspondence Files Record copy		
Subject:	FY 2011 Federal Managers' Financial Intergrity Act Assurance Letter		
Instructions:	For Your Information -- No action required		
Instruction Note:	N/A		
General Notes:	N/A		
CC:	N/A		

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OCFO	Aug 17, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 17, 2011

Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

AUG 12 2011

MEMORANDUM

SUBJECT: FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

FROM: Al Armendariz
Regional Administrator (6RA)

TO: Lisa P. Jackson

OFFICE OF THE
EXECUTIVE SECRETARY

2011 AUG 16 PM 2:16

RECEIVED

PURPOSE

In accordance with the *Federal Managers' Financial Integrity Act* (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for Region 6.

STATEMENT OF ASSURANCE

Under my leadership, Region 6 has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, Region 6 complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within Region 6 are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

Additionally, in accordance with the American Recovery and Reinvestment Act of 2009 (Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
- All Recovery Act funds designated for Region 6 have been used solely for the purpose of that program and, if applicable, were awarded and distributed in a prompt, fair, and reasonable manner;
- Region 6 is monitoring the risks and internal controls identified in EPA's Recovery Act Stewardship Plan and we are mostly in compliance with the Stewardship Plan.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

All Region 6 supervisors, managers, and the Management Integrity Advisor have completed the Agency's on-line Management Integrity Training on Internal Controls.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

Region 6 prepared 26 new Program Review Strategies for uniquely regional programs or operations; 22 related to the Air Program and four Superfund programs/operations. In our FY 2012 through 2016 Multiyear Plan, we revised the year reviews were scheduled to be performed and we added five reviews.

Region 6 identifies risks through regular program assessment such as Regional coordination, oversight of State programs, and Regional performance feedback from the Assistant Administrators. Program risks are discussed during Division management team meetings. The Divisions have regular planning calls or meetings with our external partners (states, tribes, grant recipients) to discuss planning, accomplishments, and program risks. National program managers meetings also provide a valuable perspective for program assessment and risk identification. We work with internal and external partners to identify risk through midyear and end-of-year program reviews. Program audits and capability assessments are conducted on a regular basis to ensure each state has the proper resources to implement the programs.

The Lead Region coordinators are to ensure effective Regional communication and participation in national program issues. Region 6 uses the Lead Region platform effectively to identify program risks and communicate corrective measures when needed. We use the lead region process to raise questions, promote issues, and ultimately to find solutions. Monthly lead region calls and webinars cover a wide range of topics including any potential programmatic risks. Program risks, identified by missed targets, are communicated to the Assistance Administrators, EPA Regions, States, and tribes to ensure accountability, transparency and the achievement of program results set forth in EPA's Strategic Plan and National Program Guidance.

RESULTS OF INTERNAL CONTROL REVIEWS

Over Programmatic Operations

State Implementation Plan Processing Program

EPA has been sued over the Agency Clean Air Act State Implementation Plan (SIP) backlog and has agreed to court ordered deadlines for taking action on certain SIP revisions, including SIP revisions in Region 6. We have identified the SIP review backlog and achieving court ordered deadlines as a regional weakness. We have a SIP review backlog because of resource constraints. We have hired six staff for the SIP backlog, including engineers and scientists in the Air Program and attorneys in the Office of Regional Counsel.

Improving Air Quality is a Region 6 priority as documented in our "300 Day Plan – 2011." It includes commitments to act on New Source Review SIPs and reduce air pollution emissions by finalizing Regional Haze determinations for power plants in New Mexico and Oklahoma. We

are improving the quality of SIPs we receive which allows us to reduce processing time. We are actively working with the Office of Air Quality Planning and Standards (OAQPS) to develop updated guidance, providing updated guidance to our States, conducting monthly SIP calls with States, and discussing SIPs with our States during annual Air Program Manager meetings.

We have an Air Leadership Team, which consists of the Regional Administrator, Deputy Regional Administrator and Senior Managers involved with the Air Program who discuss priority SIP actions. Priority SIP processing actions and deadlines are provided to staff and managers. Priority SIP actions are discussed weekly during Team meetings and meetings of Senior Region 6 managers. Regional staff and managers are in constant communication with OAQPS and the Office of General Counsel (OGC) regarding priority SIP actions. And, the Region is tracking the status of priority SIP processing actions.

To ensure that Region 6 meets the court-ordered obligations we are working on teams to process the SIPs, coordinating with OAQPS and OGC, seeking extensions of the deadlines where needed, authorizing comp time, and requesting additional resources from the Office of Chief Financial Officer.

National Environmental Policy Act, CAA §309

Two Region 6 staff facilitated the National Environmental Policy Act (NEPA) Team in a LEAN Kaizen Event at the Region for the CAA §309 Environmental Impact Statement (EIS) review process. Staff from four program offices participated in the event. The NEPA team identified, documented, and established a plan to streamline the NEPA §309 review process. Process improvement categories included a completeness review of the National EIS database, an electronic repository for NEPA documents, enhanced internal/external communication/coordination, identification of training/guidance needs, and improved utilization of resources.

Senior Management was briefed on the results of the LEAN Kaizen Event on July 6, 2011, and supported the recommended process improvements. A follow-up session is scheduled for August 2, 2011, to review the status of the NEPA Team with regard to the implementation process. Subsequent follow-up sessions are also planned for 90-day, 180-day, and 1-year intervals. Process improvements are anticipated to occur throughout the next year.

Over Recovery Act Operations

We used the Recovery Act Stewardship Plan (RASP) Policy Verification review for our American Recovery and Reinvestment Act A-123 review. The review was performed by the Office of the Chief Financial Officer and Industrial Economics, Incorporated. All 78 high, medium and low risk levels were included in the contracts and grants review. The draft report indicated that contract actions were fully consistent with the RASP. The draft report identified minor reporting weaknesses for grants. Actions have been taken to resolve the reporting deficiencies.

Over Financial Activities (OMB Circular A-123, Appendix A)

Un-liquidated Obligations

Our review of the annual ULO review for contracts, simplified acquisitions, travel, grants and cooperative agreements determined that controls were operating properly. In the grants and cooperative agreements A-123 review, we identified two areas of concern related to the goal and guidance for the ULO process.

The annual ULO Certification focuses on the “Reason Codes” used in the ULO review process when the objective is to identify funds that are no longer needed and to de-obligation. The review promotes choosing appropriate reason codes to characterize the obligations. Only one of the twelve reason codes involves de-obligation and the rest are justifications for the obligation to remain open. Project officers and grant specialists used inductive reasoning to select the code rather than a set of program or recipient-type specific directives to identify unneeded funds.

We identified a guidance deficiency in grants and cooperative agreements. OCFO Resource Management Directive System 2520-03-P1 and the subsequent Grants Policy Issuance 11-01 – “Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements” state that “National Program Managers, in coordination with Regional Program Offices, must develop a ‘sufficient progress’ term and condition to be included in new assistance agreements awarded on or after December 1, 2010. The term and condition must establish clear progress expectations and reflect the particular requirements of a given program.” These terms and conditions have not been promulgated. Grants specialists and project officers do not have sufficient guidance to identify unneeded funds.

For grants and cooperative agreements, National Program Managers and regional programs need to develop “sufficient progress” terms and conditions for new grants as directed by agency policy.

Superfund State Contract (SSC) Process

The regional SSC process was documented through interviews. Our review determined that a regional Standard Operating Procedures did not exist. Also, the region was not closing contracts, and authorized state credits for one large site were not processed timely. The A-123 review also tested the accuracy of the SSC accrual spreadsheet. No discrepancies were identified in the contracts tested.

Recovery Act Stewardship Plan

All high, medium and low risk levels were reviewed for contracts and grants. Contract actions were fully consistent with the Recovery Act Stewardship Plan (RASP). Minor reporting weaknesses were identified for grants. Actions have been taken to resolve the reporting deficiencies.

Grants Management

The Comprehensive Performance Review, Assessing Conformance with EPA Requirements for Establishing and Managing Grant Files Report issued on February 19, 2010 contained a finding for Region 6 on our grant file system. To address this finding the Grants Management Office (GMO) provided training for the Grant Specialists that addressed general practices/procedures and filing protocol for the administrative grant files. All Grant Specialists were in attendance and the following three topics were addressed: closeout documentation, indirect cost rate agreements, and file organization.

For closeout documentation, a template closeout letter was made available to the Grant Specialists and it was requested that everybody use the template. A copy of the final closeout letters should be put in the administrative grant file. Also, discussed were other closeout documents that are filed. The Closeout Inquiry Memo which requires the Project Officer concurrence, the final Federal Financial Report, and all applicable MBE/WBE reports. Everyone is now providing and filing all relevant closeout documents.

For indirect cost rate requirements, a copy of the indirect cost rate agreement is filed in a central file by State so that an individual copy is not filed in every State's program/project file. In the interest of conserving paper and having a "green" status, the GMO requested that all Grant Specialist file the agreements in a central file. Most State agencies, unless there is an exception, renegotiate their indirect cost rate agreement annually. The Agreements are included in the State's annually submitted "Bundled Certifications.

The Grants Office practice of "file organization" was reviewed and all Grant Specialists were requested to follow an established protocol for consistent organization of documents.

Deepwater Horizon BP Oil Spill Stewardship Plan

All high, medium and low risk levels were reviewed for contracts and acquisitions, purchase card, personal property, payroll and travel, and budget execution. Region 6 operations complied with the objectives of the Deepwater Horizon BP Oil Spill Stewardship Plan. Transaction weaknesses were identified for purchase card transactions and personal property custody. Although most findings were low risk, i.e. missing third party verification, missing explanation/justification of purchase, no evidence of tax exempt consideration, the reviewer did note that a purchase card holder did not use the electronic purchase card log to record any of his transactions, which poses a medium to high risk for the Agency. All purchase card transactions must be recorded on the purchase card log. In addition, the electronic log must be used during an emergency response when EPA is using funds from another Agency. During future responses, the Region will provide purchase card holders and their approving officials with a one-page reminder of purchase card rules/regulations. Additionally, as outlined in the Disaster Response Guidebook for Personal Property Management, the Finance Section shall forward copies of all purchase orders, bank card logs and/or reports that reflect incidental spending/purchasing for property to the Regional Property Accountable Officer (PAO) on a weekly basis so that accountable property that did not go through central receiving can be traced and decaled.

Although identified and corrected, the transfer of EPA owned property from the primary owner's Custodial Account (CA) to the response CA was not timely. In order to help ensure transfers of EPA owned property from one Custodial Account to another are handled expeditiously, all response personnel shall be provided with a copy of language from the Disaster Response Guidebook for Personal Property Management to remind them that the Regional PAO shall be notified in advance and involved with the movement of EPA owned accountable assets/resources during any disaster. The PAO shall assist response personnel with the preparation of the necessary transfer documentation to affect the transfer out of the primary owner's CA to the response CA and back again once the accountable property is no longer required.

Superfund Site Identifier ZZ Accounts

Region 6 no longer uses ZZ accounts. For FY 2011, only five contract expenditures were identified and these charges were corrected. These charges were coding errors made by the contractor and not immediately identified and corrected by the project officers.

CURRENT WEAKNESSES

Region 6 does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provided feedback to Lead Regions on weaknesses for which other offices/regions have the lead.

MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, AND OMB

Region 6 does not have the lead for any of EPA's new management challenges or proposed weaknesses.

NEW OR EMERGING ISSUES

No new issue has come to our attention that rises to the level of a material or Agency weakness. However, the Region does have challenges with the increased volume of work related to electronic records management, Freedom Of Information Act (FOIA) responses, and litigation discovery production. The Region is moving staff into these areas, and has prioritized implementations of the Office of Environmental Information's preferred Documentum platform.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

Related to the Clean Air Act State Implementation Plan (SIP), Region 6 developed effective teams to include an Air Leadership Team of the RA, Deputy RA and senior managers. We have also met all court ordered dates for SIP actions

Best practices related to SIPs include:

- Working with the Office of Air Quality Planning and Standards and our States to improve the timeliness and quality of guidance, and quality of SIPs we receive from States.
- Identifying deadlines and assigning staff to priority SIPs.
- Using tracking systems to inform management and staff of the status of priority SIPs.
- Weekly discussions of priority SIP actions.
- Close coordination with the Office of Air and Radiation and the Office of General Counsel

In May 2011, Region 6 staff, not a contractor, facilitated a LEAN event on the National Environmental Policy Act (NEPA) 309 Environmental Impact Statement (EIS) regional review process. Four Region 6 staff attended a Department of Defense LEAN training in January 2011. We are completing EIS reviews 95 percent of the time in the time allotted; however, the region wants to improve the process. We identify six areas for improvement which will be addressed over the next year. Results were presented at the recent national NEPA meeting.

CLOSING

If you have any questions about this letter, please call me at (214) 665-2100, or your staff may contact Susan Jenkins, Management Integrity Advisor at (214) 665-6578.

Attachments (10)

Multiyear Plan FY 2012 through FY 2016
New Program Review Strategies
Control Environment AL Form 2011-005
Recovery Act Stewardship Plan AL Form 2011-006
Deep Water Horizon/BP Oil Spill AL Form 2011-007
Un-liquidated Obligations AL Form 2011-008(a)
Un-liquidated Obligations - Certification AL Form 2011-008(c)
Superfund State Contract - Certification AL Form 2011-009(a)
Superfund State Contract- Spreadsheet AL Form 2011-009(b)
Superfund Site Identifier ZZ Accounts AL Form 2011-010

cc: Annette Morant, OCFO
Aileen Atcherson, OCFO
Patrick Gilbride, OIG



Correspondence Management System

Control Number: AX-11-001-3883

Printing Date: August 17, 2011 11:50:00



Citizen Information

Citizen/Originator: McCarthy, Gina

Organization: EPA/OAR

Address: 1200 Pennsylvania Avenue, N.W., Washington, DC 20460

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3883

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Aug 15, 2011

Received Date: Aug 16, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: N/A

Signature Date: N/A

File Code: 401_127_a General Correspondence Files Record copy

Subject: Daily Reading File - Federal Managers Financial Integrity Act.

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OCFO	Aug 17, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 17, 2011

Comments



AUG 15 2011

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

FROM: Gina McCarthy
Assistant Administrator

TO: Lisa P. Jackson
Administrator

PURPOSE

In accordance with the *Federal Managers' Financial Integrity Act* (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for the Office of Air and Radiation.

STATEMENT OF ASSURANCE

Under my leadership, the Office of Air and Radiation has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, the Office of Air and Radiation complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within the Office of Air and Radiation are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

Additionally, in accordance with the American Recovery and Reinvestment Act of 2009 (Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
- All Recovery Act funds designated for the Office of Air and Radiation's Diesel Emission Reduction program (DERA) have been used solely for the purpose of that program and, if applicable, were awarded and distributed in a prompt, fair, and reasonable manner;
- The Office of Air and Radiation is monitoring the risks and internal controls identified in EPA's Recovery Act Stewardship Plan and is in compliance with the Stewardship Plan.

CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING

I certify that all senior managers and designated GS-15s in the Office of Air & Radiation have completed the Agency's on-line Management Integrity Training on Internal Controls.

FRAMEWORK FOR ASSESSING INTERNAL CONTROLS

Program Review Strategies

In FY 2010, OAR convened a small workgroup to develop its list of key programs, using its strategic plan where the priorities are established and the budget documents where resources and performance measures are delineated. As defined by the workgroup and approved by OAR's management, below are the key OAR programs for which the review strategies were developed:

Healthier Outdoor Air

- National Ambient Air Quality Standards Program
- National Air Toxics Program
- National Air Quality Management Program
 - National Ambient Air Monitoring Program
 - Stationary Source Regulatory Program
 - Title V Permitting Program
 - Acid Precipitation Program
- Federal Vehicle and Fuel Standards and Certification Program
- Diesel Emissions Reduction Program
- Tribal Air Quality Management Program

Reduce Greenhouse Gas Emissions

- Climate Protection Program

Healthier Indoor Air

Protecting the Ozone Layer

- Stratospheric Ozone Program

Radiation

Crosscutting

- State and Tribal Assistance Grant Program for Air Quality Management

These program review strategies were posted to EPA internal web site in January 2011. In preparation for the development of this year's assurance letter, I asked the programs and regional offices to review the strategies to ensure they still reflected our priorities and that the internal controls were still adequate. I have attached the strategies that were updated as a result of that review at attachment G.

Working with Internal and External Parties

OAR continues to work in a constructive way with both the Government Accountability Office (GAO) and the Office of the Inspector General (OIG) to review key programs and identify risks. For example, over the last year the OIG has undertaken reviews OAR's Vehicle Emission Testing Fees and the Smartway Transport Partnership Program in the Office of Transportation and Air Quality, the

RADNET monitoring program in the Office of Radiation and Indoor Air, and EPA's Role in Protecting Public Health from Airborne Risks Associated with the Oil and Gas Industry. In addition, OAR has been working with GAO on a number of engagements involving OAR programs, including ethanol blends and risks, Federal renewable energy initiatives, and ENERGYSTAR. Once the reviews are complete, OAR works aggressively to develop and implement corrective actions to address the problems highlighted in the reports. Quarterly reports document progress in achieving milestones.

NPM Guidance

OAR uses the National Program Guidance to communicate priorities and upcoming regulatory actions to the regional offices. The guidance also contains a region-by-region allocation of grant resources to states, locals and tribes that aligns with, and helps support, their implementation. The regional offices, in turn, use the information in the program guidance to negotiate grant work plans with state, local, and tribal air pollution control agencies and other grant recipients. The National Program Guidance is one of the most important methods of ensuring that OAR programs are consistently and effectively implemented by the states and tribal governments.

OAR's guidance development process is centrally managed to ensure the guidance reflects the full range of priorities and activities underway within OAR. The National Program Guidance also reinforces top priorities and key activities through regional Annual Commitment performance measures. These measures ensure that regional office managers and grant recipients are accountable for implementing and reporting progress on key program activities. OAR also utilizes other methods to communicate priorities and regulatory actions to regions, partners, and stakeholders. These methods include direct meetings, trainings, conference calls, and the issuance of more detailed technical guidance. Our experience is that by utilizing these multiple communications techniques, we reach all of our partners and stakeholders and clearly explain the impacts of our upcoming activities.

RESULTS OF INTERNAL CONTROL REVIEWS

Over Programmatic Operations

OAR uses a number of tools, methodologies and review mechanisms to ensure that its programs are operating satisfactorily and that opportunities for waste, fraud, abuse and mismanagement are minimized. (See the summary of OAR's control environment at attachment A.) A sampling of the reviews that were undertaken and completed in 2011 can be found at attachment B. A schedule of future reviews of internal controls can be found in the Multi-year Plan at attachment F.

Over Recovery Act Operations

OAR assures that it has validated the monitoring activities for the control objectives identified as high risk in the Agency's Recovery Act Stewardship Plan for the DERA American Recovery and Reinvestment Act (ARRA) grants. These monitoring activities include monthly baseline reporting, quarterly grant reporting and annual advanced monitoring activities. OAR assures that no weaknesses or significant deficiencies have been identified. Additionally, EPA's Recovery Act Internal Controls Workgroup reviewed nine budget execution controls within the agency and none were identified as high risk. A total of 100% of the fiscal 2009/2011 Recovery Act resources, appropriated for OTAQ's clean

diesel activities, which remained during this fiscal year, have been obligated and paid. All Recovery travel resources have been obligated. Currently there are only ten trips pending payment. All travel funded with expiring funds is to be paid by end of July 2011.

Over Financial Activities (OMB Circular A-123, Appendix A)

OAR completed its review of all unliquidated obligations (ULOs) by June 1, 2011. Attachment C shows the results of our followup A-123 review of the ULO process. Attachment C also includes a form summarizing the results of the A-123 internal control review of the Recovery Act Stewardship Plan (RASP).

CURRENT WEAKNESSES

The Office of Air and Radiation does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provided feedback to Lead Region Coordinators on weaknesses for which other offices/regions have the lead.

MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, AND OMB

The Office of Air and Radiation has the lead for the following management challenges indentified by the Office of the Inspector General and the Government Accountability Office:

- Addressing EPA's Emerging Role in Climate Change

See Attachment D for details on how OAR is addressing the issues raised by this challenge.

NEW OR EMERGING ISSUES

OAR has identified the following issue that may pose future challenges:

Vehicle Certification and Compliance Activities:

OAR's Office of Transportation and Air Quality (OTAQ) is conducting an in-depth review of all its certification and compliance activities. Over the last decade, OTAQ's regulatory activities have created new national standards that promise very significant public health benefits. These new standards programs have created significant demands on OTAQs implementation resources to help ensure these benefits are achieved. These new standards have dramatically increased the number and complexity of certificates OTAQ must issue before engines or vehicles or fuels can be sold in the United States. Moreover, there are now many new entrants, particularly from Asia, that are entering the U.S. marketplace and are unfamiliar with the US regulatory regime, and there are also newly-regulated entities. All of these factors present increased risks for noncompliance. All of this has resulted in a vastly larger implementation workload that OTAQ must manage in order to assure that the benefits are being realized by the public.

At this time, OAR does not believe the issue described rises to the level of a material or Agency weakness. We will continue to monitor the issue and report as appropriate.

ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES

See Attachment E for a sampling of OAR's accomplishments and best management practices.

CLOSING

If you or your staff have any questions about OAR's FY 2010 Assurance Letter please call me or have you staff contact David LaRoche in OAR's Office of Program Management Operations at 202 564-3926.

ATTACHMENTS

- A OAR'S INTERNAL CONTROL ENVIRONMENT**
- B RESULTS OF INTERNAL CONTROL REVIEWS**
- C OMB Circular A-123 Review**
- D MANAGEMENT CHALLENGE**
- E ACCOMPLISHMENTS AND BEST MANAGEMENT PRACTICES**
- F OAR's MULTI-YEAR PLAN (FY 2011-FY 2013)**
- G UPDATED PROGRAM REVIEW STRATEGIES**

cc: Annette Morant, OCFO
Aileen Atcherson, OCFO
Patrick Gilbride, OIG
David LaRoche, OAR, OPMO

INSTRUCTIONS
ENVIRONMENTAL PROTECTION AGENCY
FY 2011 Internal Controls over Financial Activities (OMB Circular A-123)

(Office of Air and Radiation)

CONTROL ENVIRONMENT

Instructions/examples in blue text must be removed and replaced with relevant AA/RA information before submission on August 12, 2011. Use this attachment to discuss the AA/RA's approach for ensuring and maintaining a positive control environment.

The control environment sets the tone of an organization and is the foundation for all other components of internal controls. It provides discipline and structure, as well as the climate which influences the overall quality of internal controls. Utilizing GAO's Internal Control Management and Evaluation Tool, located at http://intranet.epa.gov/ocfo/management_integrity/index.htm, is suggested as a first step to assess your organization's internal control structure.

The discussion must include the following areas:

- Integrity and Ethical values - OAR managers, as well as staff members, are held to the highest integrity and ethical standards. OAR promotes honesty, integrity, ethical values and behavior. Management develops a clearly articulated statement of ethical values that demonstrate the importance of sound integrity to employees through day-to-day actions and decision-making. Interactions with internal and external parties reflect fair and honest dealings. Performance appraisals and incentives promote consistency in financial reporting. Ethics training is provided for all employees and designated employees file Financial Disclosure Reports. OAR adheres to all Agency policies and procedures related to human resources management, including hiring, training, motivating, evaluating, promoting, compensating, transferring and terminating personnel that are applicable to functional areas. Management implements mechanisms to inform new employees and remind current personnel of OAR's objectives related to integrity and ethics and related organizational values by providing information to new hires emphasizing management's views about the importance of sound integrity and ethics. Periodically, OAR managers provide employees updated information relevant to maintaining sound integrity and ethical values, including periodic training or other interactive communications to review current and new ethics policies.
- Commitment to Competence - OAR follows well established Agency procedures for human resource actions such as hiring, training and performance evaluations. Management adheres to the following in its commitment to competence in the work environment: OAR adheres to Agency policies and procedures/manuals; OAR ensures new/prospective employees undergo appropriate level of HR screening, and appropriate interview process and background checks; employees undergo periodic review of job descriptions and are given the appropriate level of resources, equipment, and software to perform tasks. Management is consistent in promoting a

good work environment, committed to job training, rewards and recognition, and carries out employee development programs. Formal job descriptions are in place for all employees. Skills are carefully assessed in recruiting new staff members and routinely evaluated for current staff members. All OAR personnel have performance agreement plans (PARS) in place that identify and define responsibilities and expectations.

- Management's Philosophy and Operating Style – OAR has established vision, mission and values which are communicated to all staff. Weekly management meetings are held in which management controls and monitoring of operations are discussed. Regular briefings and meetings on specific programmatic issues are held with staff, managers, and our external stakeholders, as appropriate. OAR adheres to all Agency policies, procedures and guidance governing program operations to protect programs and resources from fraud, waste, abuse, and mismanagement. OAR uses agency systems to track resource expenditures, and reviews progress at weekly management meetings for travel, program expenditures, FTE utilization, and program implementation and development. Valuable assets and information are safeguarded from unauthorized access or use. There is frequent interaction between senior management and operating/program management, especially when operating among different technology goals. OAR management has an appropriate attitude toward financial, budgetary, and operational/programmatic reporting. Management is informed and involved in critical operational and financial reporting issues and supports a conservative approach toward the application of technologies and budgetary estimates.
- Organizational Structure - OAR operates under a defined organizational structure through which information flows throughout the Office. OAR senior staff meets weekly with the Assistant Administrator and other senior leadership to ensure effective communications, management controls and monitoring of operations. Reorganizing, restructuring and streamlining operations are conducted as appropriate to meet needs and priorities.
- Assignment of Authority and Responsibility – OAR has an organizational structure that clearly delineates the lines of authority and responsibility. OAR adheres to the requirements in the Agency's Delegations Manual as well as internal operating procedures. Each employee knows how his or her actions interrelate to others considering the way in which authority and responsibilities are assigned, and is aware of the related duties concerning internal control. Clear guidance has been provided regarding delegations of authority within the Office when the Assistant Administrator is out of the office.
- Human Resource Policies and Practices – When filling positions, OAR adheres to the Agency's guidelines and timeframes defined in the guidelines for the recruitment of all staff. Policies and procedures are in place for hiring, orienting, training, evaluating, counseling, promoting, compensating, disciplining, and terminating employees. During the recruitment and selection process, all required documents are submitted to OAR's Human Resources staff to ensure accuracy before being submitted for action.
- Oversight Groups – OAR's strategy for assessing how well those internal controls protect the operations from fraud, waste, abuse, and mismanagement includes both internal and external team audits. Our accountability is also enhanced by reviews conducted by external organizations



Correspondence Management System

Control Number: AX-11-001-3898

Printing Date: August 17, 2011 02:54:56



Citizen Information

Citizen/Originator: Boggs, Don

Organization: Titus County Commissioners' Court
Address: 100 W. First Street, Mt. Pleasant, TX 75455

Fields, Mike

Organization: Titus County Commissioners' Court
Address: 100 W. First Street, Mt. Pleasant, TX 75455

Hinton, Phillip

Organization: Titus County Commissioners' Court
Address: 100 W. First Street, Mt. Pleasant, TX 75455

Hockaday, Thomas

Organization: Titus County Commissioners' Court
Address: 100 W. First Street, Mt. Pleasant, TX 75455

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-11-001-3898	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Sep 1, 2011	# of Extensions:	0
Letter Date:	Aug 2, 2011	Received Date:	Aug 17, 2011
Addressee:	AD-Administrator	Addressee Org:	EPA
Contact Type:	LTR (Letter)	Priority Code:	Normal
Signature:	DX-Direct Reply	Signature Date:	N/A
File Code:	404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.		
Subject:	DRF - Docket No. EPA-HQ-OAR-2011-0044		
Instructions:	DX-Respond directly to this citizen's questions, statements, or concerns		
Instruction Note:	N/A		
General Notes:	N/A		
CC:	OEAE - Office of External Affairs and Environmental Education R6 - Region 6 -- Immediate Office		

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Aug 17, 2011	Sep 1, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

DAILY READING FILE



Titus County Commissioners' Court Mt. Pleasant, Texas

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

OFFICE OF THE
EXECUTIVE SECRETARIAT

2011 AUG 17 AM 8:07

RECORDED

August 2, 2011

Re: Docket No. EPA-HQ-OAR-2011-0044

Dear Administrator Jackson,

As Titus County Commissioners, we would like to express our serious concerns about new environmental proposals that will directly affect Titus County.

We understand the need to improve the quality of our air and to protect our environment, but we also are concerned about the cost of new regulations. The Cross-State Air Pollution Rule (CSAPR) previously did not include Texas emission reductions. But the final rule issued by EPA in July imposes severe limits on our generating plants, and requires compliance in only six months. The pending federal rules changed radically in one year from asking for no changes to requiring massive reductions in a very short period of time.

Compliance might require our generators (we have two in Titus County) to shut down or curtail some generating units. Other jobs will be at risk, because if the EPA is right that a key part of the solution is switching from our locally mined (in Titus County) lignite to Wyoming coal, then our local mines will be forced to shut down, putting hundreds out of work in our immediate area.

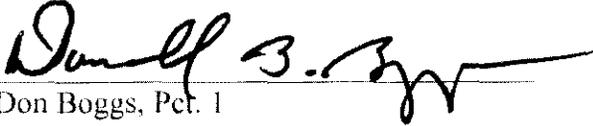
Electric reliability will suffer as plants are forced to reduce operations in order to comply with the rule. The Electric Reliability Council of Texas, or ERCOT, has already said the rule is unreasonable and threatens Texans' ability to have sufficient electricity.

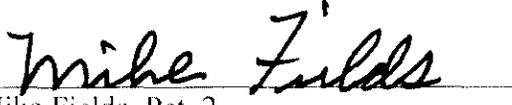
The rule's requirement for compliance in less than six months means Texas generators only have options that are reductive, not additive. They can curtail operations, or shut plants, but they can't install significant new control equipment, or build new forms of generation.

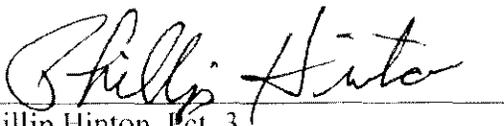
We respectfully ask that you reconsider these new regulations and revise the time table to allow a more reasonable period within which to comply. Titus County stands to lose on multiple fronts. We are home to Lignite production and two power plants. The loss of jobs, tax base, less reliable power supplies and significant increases in electrical power will have an extremely negative impact not only in our County, but in all of northeast Texas.

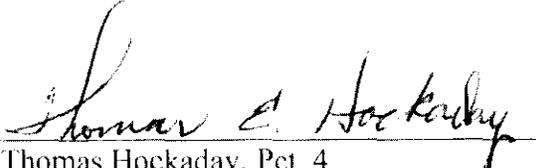
Thank you for your consideration.

Sincerely,


Don Boggs, Pct. 1


Mike Fields, Pct. 2


Phillip Hinton, Pct. 3


Thomas Hockaday, Pct. 4



SBU/FOUO: Memo from Department of State Exec Sec Stephen D. Mull:
National Security Affairs Calendar SENSITIVE BUT UNCLASSIFIED/FOR
OFFICIAL GOVERNMENT USE ONLY - S/ES No. 201114349

Brown, Jewel M to: ABlinken, anneem, balline, Brenda.Mackall,
carol.darr, carol.kennedy, carol.matthews, Charles.H.Scales, Charley.L.Diaz, 08/15/2011 08:32 PM

From: "Brown, Jewel M" <BrownJM4@state.gov>
To: <ABlinken@ovp.eop.gov>, <anneem@ucia.gov>, <balline@centcom.mil>,
<Brenda.Mackall@hq.doe.gov>, <carol.darr@dot.gov>, <carol.kennedy@hq.doe.gov>,
<carol.matthews@hq.doe.gov>, <Charles.H.Scales@nasa.gov>, <Charley.L.Diaz@uscg.mil>

SENSITIVE BUT UNCLASSIFIED

FOR OFFICIAL GOVERNMENT USE ONLY

MEMORANDUM FOR NATHAN D. TIBBITS

EXECUTIVE SECRETARY

NATIONAL SECURITY STAFF

SUBJECT: NATIONAL SECURITY AFFAIRS CALENDAR

The National Security Affairs Calendar for the upcoming months is attached. Please transmit the attached materials to the Executive Secretary-level representative noted on the attached National Security Affairs Calendar Distribution Sheet.

NOTE: CIRCULATION OF THE NATIONAL SECURITY AFFAIRS CALENDAR IS LIMITED TO MEMBERS LISTED ON THE DISTRIBUTION SHEET.

<<Final Dist 201114349>> <<Final Dist 201114349>>

SENSITIVE BUT UNCLASSIFIED

FOR OFFICIAL GOVERNMENT USE ONLY

- 08157546.tif - 08159968.tif

RECEIVED
 2011 AUG 17 AM 8:08
 EXECUTIVE SECRETARIAT
 OFFICE OF THE



United States Department of State

Washington, D.C. 20520

August 15, 2011

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

MEMORANDUM FOR NATHAN D. TIBBITS
EXECUTIVE SECRETARY
NATIONAL SECURITY STAFF

SUBJECT: National Security Affairs Calendar

The National Security Affairs Calendar for the upcoming months is attached.

A handwritten signature in black ink, appearing to read "S.D. Mull".

Stephen D. Mull
Executive Secretary

Attachment:
As stated.

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August 15, 2011

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NATIONAL SECURITY AFFAIRS CALENDAR

ONGOING EVENTS

Aug 15-19	Visit of Environmental Protection Agency Administrator Jackson to Brazil
Aug 15-19	U.S.-Brazil Joint Initiative on Urban Sustainability, Rio de Janeiro
Aug 15*	Visit of King George Tupou of Tonga to Washington
Aug 16-24	Visit of Vice President Biden to China, Mongolia and Japan
Aug 16-18	U.S.-China Aviation Negotiations, Chongqing
Aug 17	U.S.-Brazil Strategic Energy Dialogue, Brasilia
Aug 21-25	APEC Business Advisory Council (ABAC) III, Lima
Aug 21	Presidential Elections in Cape Verde-2nd Round

LOOKING FORWARD

Aug 31	Presidential Elections in Singapore
Sep TBD	Official Launch of the Global Counterterrorism Forum (GCTF), New York
Sep TBD*	2nd Round of U.S.-Philippines Bilateral Strategic Dialogue, Washington

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- Sep 2 ASEAN Ministers of Energy Meeting, Brunei
- Sep 3-4 10th Anniversary of the Inter-American Democratic Charter Commemoration, Valparaiso, Chile
- Sep 6-9 42nd Pacific Islands Forum, Auckland
- Sep 6-8 1st APEC Forestry Ministerial, Beijing
- Sep 7-8* Visit of Foreign Minister Ashiru of Nigeria to Washington
- Sep 9-10 G-7 Finance Ministerial Meeting, Marseille
- Sep 11 Presidential and Legislative Elections in Guatemala
- Sep 12-16 International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna
- Sep 12-30 18th Regular Session of the Human Rights Council, Geneva
- Sep 13-16 9th Asia-Pacific Economic Cooperation (APEC) Women and Economy Summit, San Francisco
- Sep 13 66th United Nations General Assembly Commences, New York
- Sep 13 Asia-Pacific Economic Cooperation (APEC) High-Level Meeting on Energy Efficiency and Sustainable Transportation, San Francisco
- Sep 14-16 Annual Meeting of the New Champions 2011, Dailian, PRC
- Sep 14 Asia-Pacific Economic Cooperation (APEC) Transportation and Energy Ministerial, San Francisco
- Sep 15 Australia-U.S. Ministerial (AUSMIN) 2011, San Francisco

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- Sep 17-19* Visit of Crown Prince Al-Mutahdee Billah of Brunei to Washington
- Sep 17 Parliamentary Elections in Latvia (Snap)
- Sep 19-20 66th United Nations General Assembly Non-Communicable Disease High-Level Session, New York
- Sep 19-23 IAEA General Conference, 55th Session, Vienna
- Sep 20 66th United Nations General Assembly Desertification High-Level Session, New York
- Sep 20 Presidential and Legislative Elections in Zambia
- Sep 20 Open Government Partnership (OGP) Summit, New York
- Sep 21 66th United Nations General Assembly General Debate begins, New York
- Sep 22 Subnational Legislative Elections in Saudi Arabia (Snap)
- Sep 23 UN Conference on Facilitating the Entry into Force of the Comprehensive Nuclear Test Ban Treaty, New York
- Sep 23-25* 2011 World Bank/IMF Annual Meetings, Washington
- Sep 24 Legislative Elections in the United Arab Emirates
- Sep 24 Parliamentary Elections in Bahrain (Snap)-1st Round
- Sep 25-26 Asia-Pacific Economic Cooperation (APEC) Senior Officials' Meeting 3, San Francisco
- Sep 26 International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna

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Sep 26-27* International Engagement Conference in Support of Republic of South Sudan (IEC), Washington

Sep 27-30 Internet Governance Forum (IGF), Nairobi

Sep 27* Visit of Foreign Minister Portas of Portugal to Washington

Oct TBD Election of UN Security Council Non-Permanent Members

Oct TBD (T) Parliamentary Elections in Egypt

Oct 1 Parliamentary Elections in Bahrain (Snap)-2nd Round

Oct 3-28 UNGA First (Disarmament and International Security) Committee, New York

Oct 5-6 North Atlantic Treaty Organization (NATO) Defense Ministers Meeting, Brussels

Oct 5-6 Pathways to Prosperity Ministerial Meeting, Santo Domingo

Oct 5-7 The Americas Competitiveness Forum, Santo Domingo

Oct 7 Parliamentary Elections in Morocco

Oct 9 Parliamentary Elections in Poland

Oct 10-11 Summit on the Global Agenda 2011, Abu Dhabi

Oct 11 Presidential and Legislative Elections in Liberia

Oct 13* U.S.-India Higher Education Summit, Washington

Oct 16 G-20 Finance Ministerial, Paris

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Oct 16-17	APEC Workshop on Terrorist Abuse of Non-Profit Organizations, Kuala Lumpur
Oct 16	Parliamentary Elections in Mauritania
Oct 17-18	International Congress on Energy Security, Geneva
Oct 17-21	IAEA: International Conference on the Safe and Secure Transport of Radioactive Materials, Vienna
Oct 17-20	7th UNESCO Youth Forum, Paris
Oct 21-23	World Economic Forum on the Middle East, Dead Sea, Jordan
Oct 23	Legislative Elections in Tunisia (Snap)
Oct 23	Presidential Elections in Bulgaria
Oct 24-28	International Telecommunication Union (ITU) Telecom World 2011, Geneva
Oct 30	Presidential Elections in Kyrgyzstan
Oct 31*	U.S.-Indonesia Higher Education Summit, Washington
Nov TBD	Pacific Island Conference of Leaders, Honolulu
Nov TBD	Presidential Elections in Egypt
Nov 1	High-Level Forum on Aid Effectiveness, Seoul
Nov 1-2	London International Cyber Conference, London
Nov 2	Regional Summit on Afghanistan, Istanbul

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Nov 3-4 G-20 Summit, Cannes

Nov 7-9 APEC Business Advisory Council (ABAC) IV, Honolulu

Nov 8-9 Asia-Pacific Economic Cooperation (APEC) Concluding Senior Officials Meeting and Related Meetings, Honolulu

Nov 10 Asia-Pacific Economic Cooperation (APEC) Finance Ministerial, Honolulu

Nov 10-11 Asia-Pacific Economic Cooperation (APEC) CEO Summit, Honolulu

Nov 11 Asia-Pacific Economic Cooperation (APEC) Ministerial Meeting, Honolulu

Nov 12-13 19th Asia-Pacific Economic Cooperation (APEC) Economic Leaders' Meeting, Honolulu

Nov 12 Parliamentary Elections in Denmark

Nov 13-15 India Economic Summit, Mumbai

Nov 14-18 International Atomic Energy Agency (IAEA) International Conference on Research Reactors, Rabat

Nov 14-18 International Education Week

Nov 14 (T) Parliamentary Elections in Guyana

Nov 17-18 International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna

Nov 17-19 ASEAN Summit and Related Meetings, Bali

Nov 19 East Asia Summit (EAS) Meeting, Bali

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Nov 20 Parliamentary Elections in Spain

Nov 24 Presidential Elections in Gambia

Nov 26 Parliamentary Elections in New Zealand

Nov 28 (T) Presidential and Legislative Elections in the Democratic Republic of Congo

Nov 28 - Dec 9 17th Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) and the 7th Session of the Conference of the Parties Serving as a Meeting of the Parties (CMP 7) to the Kyoto Protocol, Durban

Dec 4 Parliamentary Elections in Croatia

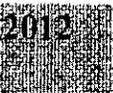
Dec 5-22 Biological Weapons Convention 7th Review Conference, Geneva

Dec 5 International Afghanistan Conference, Bonn

Dec 6-7 Organization for Security and Cooperation in Europe (OSCE) Ministerial, Vilnius

Dec 7-8 North Atlantic Treaty Organization (NATO) Foreign Ministers Meeting, Brussels

Dec 12-19 World Trade Organization (WTO) Ministerial Conference, Geneva

 Jan 16-19 5th World Future Energy Summit, Abu Dhabi

Jan 23 - Feb 17 World Radiocommunications Conference 2012 (WRC-12), Geneva

Jan 25-29 World Economic Forum Annual Meeting, Davos-Klosters

Feb TBD 48th Munich Security Conference, Munich

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Mar 5-9	International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna
Mar 12-17	6th World Water Forum, Marseille
Mar 26-27	Nuclear Security Summit, Republic of Korea
Apr 14-15	6th Summit of the Americas, Cartagena
May TBD	NATO Summit, Chicago
May 18-19	2012 European Bank for Reconstruction and Development (EBRD) Annual Meeting, London
May 20	Presidential Elections in the Dominican Republic
May 31 - Jun 1	African Development Bank Annual Meeting, Arusha
Jun 4-6	UN Conference on Sustainable Development (UNCSD) or Rio + 20, Rio de Janeiro
Jun 4-8	International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna
Jul 1	Presidential and Legislative Elections in Mexico
Jul 8-10	Organization of American States (OAS) General Assembly, Cochabamba, Bolivia
Jul 21-25 (T)	19th Annual ASEAN Regional Forum, Phnom Penh
Jul 27 - Aug 12	XXX Summer Olympic Games, London
Aug 29 - Sep 9	Paralympic Games, London

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Sep 10-14	International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna
Sep 17-21	International Atomic Energy Agency (IAEA) General Conference, Vienna
Oct 8	Legislative Elections in Slovenia
Nov 18-20 (T)	21st Annual ASEAN Summit, Phnom Penh
Nov 29-30	International Atomic Energy Agency (IAEA) Board of Governors Meeting, Vienna

* = Taking Place in Washington

(T) = Tentative

TBD = To Be Determined

For additions/updates/corrections/changes:

Please email Saadia Sarkis at sarkiss@state.sgov.gov or sarkiss@state.gov.

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DAILY READING FILE

8/16 2:00 PM AT

August 12, 2011

RECEIVED

Hon. Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

2011 AUG 16 PM 2:00

OFFICE OF THE
EXECUTIVE SECRETARIAT

Re: Docket ID Nos. EPA-HQ-OAR-2009-0234

Dear Administrator Jackson:

On behalf of the City of Hogansville, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, not-for-profit electric utility serves 1200 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that as many as 70 GW of capacity could face retirement.

- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based on EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule . We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.



Bill Stankiewicz
City Manager

cc: The Honorable Lynn Westmoreland
The Honorable Johnny Isakson
The Honorable Saxby Chambliss



Correspondence Management System

Control Number: AX-11-001-3914

Printing Date: August 17, 2011 02:31:51



Citizen Information

Citizen/Originator: Kasse, Geoff

Organization: American Lung Association
Address: 630 Churchmans Road, Newark, DE 19702

Constituent: N/A

Committee: N/A Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3914 Alternate Number: N/A
Status: Pending Closed Date: N/A
Due Date: Aug 31, 2011 # of Extensions: 0
Letter Date: Aug 5, 2011 Received Date: Aug 16, 2011
Addressee: AD-Administrator Addressee Org: EPA
Contact Type: LTR (Letter) Priority Code: Normal
Signature: DX-Direct Reply Signature Date: N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- We urge you to start now and protect public health by cleaning up power plants with stricter standards on toxic pollution.

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Aug 17, 2011	Aug 31, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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AMERICAN LUNG ASSOCIATION. IN PENNSYLVANIA

8/16
REC'D
2011 AUG 16 PM 1:59
OFFICE OF THE
EXECUTIVE SECRETARIAT

Easton
PO Box 4029
Easton, PA 18043
Phone: 610.253.5060
Fax: 888.421.5757

August 5, 2011

Administrator Lisa Jackson
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20004

Harrisburg
Norman P. Hetrick Building
3001 Gettysburg Rd
Camp Hill, PA 17011
Phone: 717.541.5864
Fax: 888.415.5757

Philadelphia
527 Plymouth Rd
Suite 403
Plymouth Mtg, PA 19462
Phone: 610.941.9595
Fax: 888.496.5757

As the Pittsburgh Leadership Board of the American Lung Association of the Mid-Atlantic, we are writing to urge EPA to close the two-decade old loophole that has allowed coal-fired power plants to avoid having to clean up, unlike all other industries. The cleanup of toxic air pollution from power plants is long overdue. EPA must set stricter standards on toxic pollution from power plants to improve air quality and protect public health.

Pittsburgh
810 River Avenue
Suite 140
Pittsburgh, PA 15212
Phone: 412-321-4029
Fax: 888-613-5757

Cleaning up these power plants can save 17,000 lives a year, all across the country. There are more than 400 coal-fired power plants located in 46 states across the country that release in excess of 386,000 tons of hazardous air pollutants into the atmosphere each year. It is time for them to be cleaned up.

Scranton
Marywood University
2300 Adams Ave
Scranton, PA 18509
Phone: 570.346.1784
Fax: 570.969.5280

In the 8 counties in the Pittsburgh-New Castle Metro area alone, comprising a region of approximately 2,445, 117 million people, the American Lung Association estimates that the following populations* are at special risk from the kinds of air pollutants produced by coal-fired power plants:

Wilkes-Barre
71 N. Franklin St Rm 207
Wilkes-Barre, PA 18701
Phone: 570.823.2212
Fax: 570.823.2212

Infants, Children, and Youth Under 18	495,000
Persons Aged 65 and Above	423,000
Children with Asthma	51,000
Adults with Asthma	174,000
Persons with Emphysema	49,000
Persons with Chronic Bronchitis	90,000
Persons with Heart Disease	783,000
Persons with Diabetes	184,000
Persons of All Ages Living in Poverty	291,000

Website
www.lunginfo.org

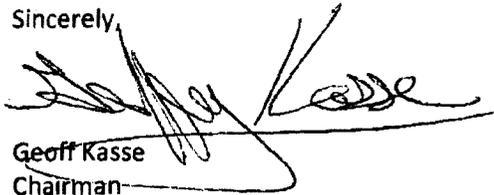
* Note: As there is overlap among categories, numbers may not be added together.

All coal-fired power plants must be required to install modern pollution control equipment to reduce hazardous air pollution, including the toxic metals, acid gases and other pollutants, by the maximum achievable amount. Only with such measures will the health of children and other vulnerable individuals be protected. The pollution control technologies needed to meet these requirements are commercially available. Plant owners have flexibility under the law to select an appropriate combination of controls that will enable greater protection of human health and the environment.

American Lung Association

We urge you to start now and protect public health by cleaning up power plants with stricter standards on toxic pollution. We support the strongest possible mercury and air toxics standards for power plants and urge you to make them final.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoff Kasse", written over a horizontal line.

Geoff Kasse
Chairman





Correspondence Management System

Control Number: AX-11-001-3922

Printing Date: August 17, 2011 02:44:01



Citizen Information

Citizen/Originator: Hulsey, Brett

Organization: State of Wisconsin
Address: P.O. Box 8952, Madison, WI 53708

Constituent: N/A

Committee: N/A Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3922 Alternate Number: N/A
 Status: Pending Closed Date: N/A
 Due Date: Sep 1, 2011 # of Extensions: 0
 Letter Date: Jul 31, 2011 Received Date: Aug 17, 2011
 Addressee: AD-Administrator Addressee Org: EPA
 Contact Type: LTR (Letter) Priority Code: Normal
 Signature: DX-Direct Reply Signature Date: N/A
 File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Clean Water protection our beaches, wetlands, rivers, lakes and drinking water; Docket# EPA-HQ-OW-2011-0409 submitted to ow-docket@epa.gov

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
 OEAE - Office of External Affairs and Environmental Education
 R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OW	Aug 17, 2011	Sep 1, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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State Representative
77th Assembly District

Brett Hulsey

Serving Madison,
Shorewood Hills & Middleton

July 31, 2011

Administrator Lisa P. Jackson
Environmental Protection Agency
Washington, D.C.

Docket # EPA-HQ-OW-2011-0409 submitted to ow-docket@epa.gov.

RE: Clean Water protection our beaches, wetlands, rivers, lakes and drinking water

Dear Administrator Jackson,

We, the undersigned state elected officials from 28 states, are writing to support full Clean Water Act protection for our rivers, lakes, beaches, wetlands and drinking water supplies under the proposed Guidance on Identifying Waters Protected by the Clean Water Act (CWA). This is to protect the health and safety of our constituents.

The current interpretation of the Rapanos (2006) decision leaves much to be desired. Since Justice Kennedy provided no specific test to define a "significant nexus" to waters of the United States, we have limited ourselves to protecting only traditionally navigable waters and those adjacent to them. This leaves important headwater streams and isolated waters that make up almost 60% of all stream miles vulnerable to pollution and development despite their vital importance to the health of downstream rivers and lakes.

Thankfully, the EPA draft guidance articulates scientific standards to consider bodies of water to have a "significant nexus" to waters of the United States. These standards go beyond physical connections and consider chemical and biological connections, which broadens the scope of the CWA's protections. We applaud this effort.

By accepting that non-adjacent waters can affect the health of traditionally navigable and interstate waters, the draft guidance not only protects the health of major waters, but also the health of people living nearby. While some may argue that these regulations stifle job creation in a sputtering economy, the benefits of having clean water to drink and recreate and flood control far outweigh any costs, according to EPA estimates.

America's rivers and lakes are something our citizens take pride in and are used for fishing, boating, and as a source of fresh water. Furthermore, many important wetlands and ephemeral and headwater streams serve as natural filters for our water and sponges to absorb flood waters. Any loss of these wetlands and streams would severely damage downstream homes and communities. This can all be protected by adopting the proposed Guidance on Identifying Water Protected by the Clean Water Act. Thank you for your time and we look forward to hearing your decision.

RECEIVED
 2011 AUG 16 PM 2:00
 OFFICE OF THE
 EXECUTIVE SECRETARIAT



State Representative
77th Assembly District

Brett Hulsey

Serving Madison,
Shorewood Hills & Middleton

Sincerely,

Representative Brett Hulsey
Wisconsin

Representative Daniel Patterson
Arizona

Representative Kathy Webb
Chair, Joint Budget Committee
Arkansas

Representative Mary Mushinsky
Connecticut

Representative Diana Urban
Chair, Select Committee on Children
Connecticut

State Representative Chris Lee
Hawaii

Senator Elliot Werk
JLOC Co-Chair
Idaho

Representative Naomi Jakobsson
Illinois

Representative Karen May
Chair, Environmental Health
Illinois

Representative Elaine Nekritz
Illinois

Representative Matt Pierce
Indiana

Representative Mary Lou Marzian
Kentucky

Representative Seth Berry
Maine

Representative Alex Cornell du Houx
Maine

Representative Jon Hinck
House Minority Leader, Energy & Utilities
Maine

Representative Melissa Innes
Maine

Delegate James Hubbard
Assistant Majority Leader
Maryland

Senator Steve Bieda
Michigan

Senator Hoon-Yung Hopgood
Michigan

Representative Mindy Greiling
Minnesota

Senator Mary Jo McGuire
Minnesota

Senator Ann Rest
Minnesota

Senator Charles "Chuck" Wiger
Minnesota

Senator Deborah Dawkins
Mississippi



State Representative
77th Assembly District

Brett Hulsey

Serving Madison,
Shorewood Hills & Middleton

Representative Jeanette Mott Oxford
Missouri

Representative Teresa Fedor
Ohio

Representative Bryce Bennett
Montana

Representative Mike Foley
Ohio

Representative Margie MacDonald
Minority Whip
Montana

Representative Robert Hagan
Ohio

Senator Cliff Larsen
Montana

Representative Dennis Murray
Ohio

Senator Don Preister, Retired
Nebraska

Representative Connie Pillich
Ohio

Representative Naida Kaen
New Hampshire

Representative Dan Ramos
Ohio

Assemblymember Donna Lupardo
New York

Representative Sandra Williams
Ohio

Representative Rick Glazier
Minority Whip
North Carolina

Senator Michael Skindell
Ohio

Representative Pricey Harrison
North Carolina

Senator Charleta Tavares
Ohio

Senator Tim Mathern
North Dakota

Senator Nina Turner
Ohio

Representative Nickie Antonio
Ohio

Senator Jackie Dingfelder
Chair, Environment & Natural Resources
Oregon

Representative Ted Celeste
Ohio

Representative Babette Josephs
Pennsylvania

Representative Denise Driehaus
Ohio

Representative Lon Burnam
Texas

State Representative Jessica Farrar
Vice Chair, Environmental Regulation
Texas



State Representative
77th Assembly District

Brett Hulsey

Serving Madison,
Shorewood Hills & Middleton

Representative Sarah Edwards
Vermont

Representative Steve Doyle
Wisconsin

Senator Mary Margaret Whipple
Virginia

Representative Frederick Kessler
Wisconsin

Representative Marko Liias
Washington

Senator Mark Miller
Wisconsin

Representative John McCoy
Washington

Senator Jon Erpenbach
Wisconsin

Representative Luis Moscoso
Deputy Democratic Whip
Washington

Senator Chris Larson
Wisconsin

Senator Maralyn Chase
Washington

Senator Mark Miller
Minority Leader
Wisconsin

Senator Jeanne Kohl-Welles
Chair, Labor & Commerce
Washington

Senator Fred Risser
Wisconsin

Representative Kelda Roys
Wisconsin

Representative Chris Sinicki,
Wisconsin

Representative Mark Pocan
Wisconsin

Representative Penny Bernard Schaber
Wisconsin

Representative Terese Berceau
Wisconsin

Representative Gary Hebl
Wisconsin



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

AUG 17 2011

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Promotion of United States Environmental Technology, Goods and Services for Export

From: Scott C. Fulton
General Counsel

A handwritten signature in blue ink that reads "Scott C. Fulton".

To: The Administrator

Question Presented: Whether EPA employees in their official capacities can assist U.S. Government efforts to promote the export of U.S. environmental goods, services, and technologies.

Answer in Brief: EPA has statutory authority to promote the export of domestically produced environmental products, services and technologies, as described below.

Analysis: The Federal Standards of Ethical Conduct for Employees of the Executive Branch allow federal employees "to promote products, services or enterprises," . . . "[i]n furtherance of statutory authority" to do so.¹ Several statutes provide authority for EPA in this area.

One example of explicit statutory authority for EPA is found in the "Energy Star Program", established under the Energy Policy and Conservation Act, 42 U.S.C. §6294(a). Energy Star is a voluntary program to identify and promote energy-efficient products and buildings to reduce energy consumption and pollution through voluntary labeling of products and buildings that meet energy conservation standards. EPA and the Department of Energy have specific statutory authority to promote the use of Energy Star compliant technologies and work to enhance public awareness of the Energy Star label. EPA can endorse Energy Star products and partners, both domestically and internationally.²

More general export promotion authority is provided by the Environmental Trade Promotion section of the Export Enhancement Act, 15 U.S.C. §4728, which declares the policy of the United States to "foster

¹ 5 C.F.R. §2635.702(c)(1). Absent statutory authority, such endorsements violate the Standards of Ethical Conduct for Employees of the Executive Branch, which generally provide that federal employees are prohibited from using or permitting the use of their Government position or title or any authority associated with public office to endorse any product, service or enterprise. *Id.*

² Another source of specific authority is the Greenhouse Gas Intensity Reducing Technology Export Initiative. 22 U.S.C. §7905. As provided by this statute, EPA is among the agencies included in an interagency working group, led by the Secretary of State, to "promote the export of greenhouse gas intensity reducing technologies and practices from the United States."

the export of United States environmental technologies, goods, and services.” Subsection (a) further provides:

“In exercising their powers and functions, all *appropriate* departments and agencies of the United States Government shall encourage and support sales of such technologies, goods, and services.”³

Because EPA is mentioned by name in the Act as one of the implementing agencies,⁴ it is an “appropriate” agency under this provision. Accordingly, the statute provides EPA, and its authorized personnel, with authority to promote the export of technologies, goods, and services in conjunction with the exercise of the Agency’s powers and functions. We interpret this language to include export promotion activities undertaken in the implementation of EPA’s statutory mandates or in furtherance of the Agency’s environmental protection and pollution control mission.⁵ This general technology promotion authority is restricted to promotion for *export*; domestic technology promotion is not authorized by this provision. Additionally, the ethics rules regarding financial conflicts of interest and impartiality concerns apply in this area and others, and EPA officials must therefore avoid promoting for export goods or services that implicate, or could appear to implicate, their own self-interest.

The Agency has a number of efforts already under way that should enable use of this export promotion authority. For example, a number of environmental goods, services, or technologies have been evaluated under the Agency’s Environmental Technology Verification program, or have been developed under EPA’s aegis through Cooperative Research and Development Agreements, Small Business Innovative Research contracts, or research and demonstration grants. In addition, program offices may have information readily available that associates technology-based regulatory requirements with technology vendors.

To further facilitate utilization of the Agency’s export promotion authority under section 4728, I have asked OGC’s Technology and Innovations Team to be available to provide, in conjunction with other OGC law offices, counsel regarding export promotion activities. Questions in this regard should be directed to Geoff Cooper at 202-564-5451. I also recommend that the Agency create a steering committee to consider whether additional guidance is needed to fully actualize this authority. Such a committee might consider, among other things, how to build momentum for activity in this area, how to

³ 15 U.S.C. §4728(a)(emphasis added). While this subsection bears the caption, “Statement of policy,” the directive nature of the language suggests a clear source of legal authority.

⁴ EPA is the only agency specifically designated by statute as a member of the Environmental Trade Working Group of the Trade Promotion Coordination Committee (TPCC) established under section 4728. The TPCC is authorized to establish initiatives that coordinate the activities of Federal departments and agencies in order to build environmental partnerships between the United States and other geographic regions, and to enhance environmental protection and promote sustainable development by expanding U.S. exports of environmental technologies, goods, and services.

⁵ We have consulted with the Department of Commerce General Counsel on this matter, who has concurred with this interpretation of section 4728.

avoid spillover to any unauthorized *domestic* promotion activity, and how to address particular products or vendors that may be under enforcement scrutiny or raise other related concerns.

Conclusion: Senior Agency leaders can rely on the above-discussed statutory authority to promote export of environmental products, technologies, and services when, for example, speaking to international audiences, meeting with foreign representatives, or participating in trade or other international missions.



City of Independence

Office of the Mayor, Don B. Reimal

RECEIVED

2011 AUG 17 PM 12:36

OFFICE OF THE
EXECUTIVE SECRETARIAT

August 8, 2011

Hon. Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Docket ID Nos. EPA-HQ-OAR-2009-0234; EPA-HQ-OAR-2011-0044

Dear Administrator Jackson:

On behalf of the City of Independence, Missouri, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology rules ("EGU MACT"). Independence Power & Light, our community-owned, non-for-profit electric utility serves over 56,000 customers. We operate a 51 MW coal power plant that will be significantly impacted by the proposed EGU MACT rules and related New Source Performance Standards (NSPS) requirements.

Our utility has major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use.

As a not-for-profit electric utility owned and operated by local government, we have standing under all of these Executive Orders to call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame. Our city's specific concerns are as follows:

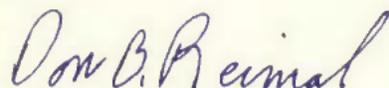
- The proposed rules do not provide our utility with enough time to comply. The short time frame for compliance risks us having to significantly raise electricity rates that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule is unrealistic about the ability of utilities and state or regional energy authorities to avoid electricity reliability issues in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired power plants will be impacted by the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could be impacted.
- EPA's economic and reliability analysis in the proposed rules assumes that the mercury MACT regulations are the only major capital expenditures the utility sector will be undertaking in the next four years. The analysis completely dismisses the current state of the economy and the cumulative impacts from approximately eight other major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed rules include many additional controls beyond those to reduce methyl mercury. These controls are not required under the Clean Air Act or the EPA's own hazardous air pollutants study. We respectfully request that EPA withdraw these rules and re-propose them to solely address methyl mercury.
- The statutorily imposed three year time frame for compliance with the rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues when coal fired power plants shut down for retrofit (often during shoulder seasons). We respectfully encourage EPA to grant the one year extension it is statutorily allowed to do and hope that a second year extension is granted via a presidential order.
- Our small, public utility will have difficulties getting vendors and contractors to respond to requests for proposals (RFPs) for a single opportunity to sell a scrubber, activated carbon technology, or baghouse when large, investor owned utilities will also be seeking larger quantities of such equipment from the same vendors. They are very likely to serve larger utilities first based on economic considerations.
- The proposed rules assume that all coal types can still be used with available control technologies. This may not be the case. Such fuel switching from one coal type to another, from coal to natural gas or fuel blending can be very expensive for a municipal utility. In addition, the natural gas market is volatile and the increased fuel switching resulting from the proposed rule will drive natural gas prices higher. The City of Independence is concerned about the impact on our citizen rate payers during these tough economic times.
- Should the proposed rules be finalized in their current form, they could have a significant impact on jobs in my community. The cost of compliance will result in increases in electric rate that could drive out businesses or result in job losses because of increased energy costs.

We respectfully request that EPA reevaluate the premises of the proposed EGU MACT rules. We support EPA's efforts to reduce harmful mercury emissions, but believe such efforts need to be realistic and done in a cost effective manner. Close to 50% of the U.S.'s electric generation

and over 80% of the City of Independence's electric generation is fired by coal. The rule as proposed will affect a significant portion of the industry and impact reliability.

In addition, we also respectfully request that the agency reconsider regulating acid gases. It is not required under the Clean Air Act and its inclusion will make it much more costly and difficult to comply with under the existing compliance timelines.

Thank you.

A handwritten signature in blue ink that reads "Don B. Reimal". The signature is written in a cursive style with a large, stylized "D" and "R".

Don B. Reimal
Mayor, City of Independence

Cc: The Honorable Claire McCaskill, Senator
The Honorable Roy Blunt, Senator
The Honorable Emanuel Cleaver, Representative, District 5
The Honorable Sam Graves, Representative, District 6



Correspondence Management System

Control Number: AX-11-001-3981

Printing Date: August 18, 2011 01:04:38



Citizen Information

Citizen/Originator: Martin, Bob

Organization: New Jersey Department of Environmental Protection

Address: 401 E. State Street, Trenton, NJ 08625-0402

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-3981

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Sep 1, 2011

of Extensions: 0

Letter Date: Aug 17, 2011

Received Date: Aug 17, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Comments on Proposed 316(b) Rule

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations

OEAEE - Office of External Affairs and Environmental Education

OP - Office of Policy

R2 - Region 2 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OW	Aug 18, 2011	Sep 1, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF THE COMMISSIONER

Mail Code 401-07

P.O. Box 402

Trenton, NJ 08625-0402

TEL (609) 292-2885

FAX (609) 292-7695

CHRIS CHRISTIE

Governor

KIM GUADAGNO

Lt. Governor

BOB MARTIN

Commissioner

August 17, 2011

Administrator Lisa P. Jackson
USEPA Headquarters - Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: Comments on National Pollutant Discharge Elimination System – Cooling Water Intake Structures at Existing Facilities and Phase I Facilities

Dear Administrator Jackson:

I am writing to address the proposed EPA regulations for the National Pollutant Discharge Elimination System – Cooling Water Intake Structures at Existing Facilities and Phase I Facilities (“316(b)”). While New Jersey applauds efforts to establish national standards on this issue, we are very disappointed with the long-awaited federal 316(b) rule, which does not establish clear regulations for cooling water systems and yet adds more regulatory burdens and complexity on the states.

States and other permitting authorities expect the EPA to set clear, achievable regulations and standards based on national data and experience, without being unnecessarily burdensome. The proposed 316(b) rule does not match these criteria.

The proposed regulations are the product of inadequate data and are ambiguous and unrealistic. The proposed rules have four major problems.

- The rule requires “maximum reduction” of entrainment mortality based upon subjective assessments, and then sets numeric standards for impingement mortality that are quantified but unachievable even with state-of-the-art technology.
- The rule requires permitting authorities to set case-by-case entrainment mortality standards based upon extensive, site-specific assessments, using a host of complex and subjective factors that include “social costs” and “social benefits,” including such factors as a household’s “willingness to pay” for the protection of fish.

- This rule unnecessarily increases the regulatory burden on states and industry without any enhancement of environmental protection.
- And after all that, EPA dumps the complex policy decision of whether to require cooling towers at existing facilities back on the states.

The national impingement mortality standards in the proposed rule are neither attainable nor based on adequate data. The rule would cover 1,260 facilities ranging greatly in facility size and type and waterbodies affected, yet the proposed standards are based on only three facilities. Even if the data were credible, the standards are unattainable even with state-of-the-art screens.

New Jersey also has concerns about other provisions in the proposed rule -- such as the barrier net requirement, which is undefined and not supported by sound science -- and is submitting detailed technical comments under separate cover.

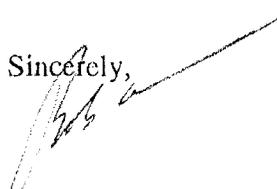
New Jersey recommends that EPA leave the decision making where it already resides: with the states but with no new regulations. In New Jersey, this is effected through New Jersey Pollutant Discharge Elimination System (NJPDES) permitting decisions.

New Jersey asks that this rule be reconsidered and, if necessary, completely rewritten to reflect the principles in President Obama's Executive Order 13563, as the details in these regulations are an unworkable approach to protecting New Jersey's invaluable natural resources.

My message is simple: either do a rule that is clear, based on science, enforceable, provides environmental value and doesn't overburden states, or don't do one at all.

Thank you for your consideration.

Sincerely,



Bob Martin
Commissioner

C: Water Docket
Docket No. EPA --HW-OW-2008-0667
U.S. Environmental Protection Agency
Mail Code: 4203M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Office of Information and Regulatory Affairs
Office of Management of Budget
Attn: Desk Officer for EPA,
725 17th Street, NW,
Washington, DC 20503



Correspondence Management System

Control Number: AX-11-001-4001

Printing Date: August 18, 2011 11:25:10



Citizen Information

Citizen/Originator: Moffatt, Tommy

Organization: The Energy Council , Mississippi State Senate
Address: 5400 LBJ Freeway, Dallas, TX 75240

Constituent: N/A

Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-001-4001 **Alternate Number:** 7950 8758 3870

Status: Pending **Closed Date:** N/A

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Letter Date: Aug 16, 2011 **Received Date:** Aug 18, 2011

Addressee: AD-Administrator **Addressee Org:** EPA

Contact Type: LTR (Letter) **Priority Code:** Normal

Signature: AA-OW-Assistant Administrator **Signature Date:** N/A

OW

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: Daily Reading File- Energy Council urges EPA to consider site-specific environmental and habitat conditions, including a whole host of wildlife protection technologies and consumer cost and electric grid reliability.

Instructions: AA-OW-Prepare draft response for signature by the Assistant Administrator for OW

Instruction Note: N/A

General Notes: N/A

CC: OAR - Office of Air and Radiation -- Immediate Office
OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (7) - Personal Privacy	OEX	OW	Aug 18, 2011	Sep 1, 2011	N/A
Instruction: AA-OW-Prepare draft response for signature by the Assistant Administrator for OW					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			