



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Compendium of Unimplemented Recommendations as of September 30, 2008

Report No. 09-P-0014

October 31, 2008



Abbreviations

CIO	Chief Information Officer
CPAF	Cost-Plus-Award-Fee
EPA	U.S. Environmental Protection Agency
GPRA	Government Performance and Results Act
ICIS	Integrated Compliance Information System
IGEMS	Inspector General Enterprise Management System
MATS	Management Audit Tracking System
NCC	National Computer Center
NIST	National Institute of Standards and Technology
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NSQS	National Sediment Quality Survey
OAR	Office of Air and Radiation
OARM	Office of Administration and Resources Management
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OEI	Office of Environmental Information
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPEI	Office of Policy, Economics, and Innovation
OPP	Office of Pesticide Programs
OPPTS	Office of Prevention, Pesticides, and Toxic Substances
ORD	Office of Research and Development
OSWER	Office of Solid Waste and Emergency Response
OTOP	Office of Technology Operations and Planning
OW	Office of Water
PCS	Permit Compliance System
RMDS	Resource Management and Directives System
SA	Superfund Alternative
SP	Special Publication



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

OFFICE OF
INSPECTOR GENERAL

October 31, 2008

MEMORANDUM

SUBJECT: Compendium of Unimplemented Recommendations as of September 30, 2008
Report No. 09-P-0014

TO: Deputy Administrator
Assistant Administrators
Regional Administrators
Office of General Counsel
Chief Financial Officer
Associate Administrators

Attached is the first Semiannual Compendium of Unimplemented Recommendations prepared by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This Compendium fulfills a requirement of the Inspector General Act (as amended) that the OIG Semiannual Report to Congress identify reports containing significant recommendations described in previous Semiannual Reports on which corrective action has not been completed.

This Compendium, as a separate document addressed to EPA leadership, is part of the OIG's follow-up strategy to promote robust internal controls. Follow-up is done in collaboration with the EPA Office of the Chief Financial Officer and Agency Follow-up Coordinators. The goal is to improve overall audit management by helping EPA managers gain a greater awareness of outstanding agreed-to commitments for action on OIG report recommendations. Implementing these recommendations will correct weaknesses, reduce vulnerabilities to risk, and leverage opportunities for improved performance.

We are encouraged by the increasing level of interest and involvement of the Agency Audit Follow-up Coordinators and the Office of the Chief Financial Officer in this Compendium and the audit follow-up process. We have already seen measurable improvements in the awareness of, accountability for, and action on OIG recommendations.

The unimplemented recommendations listed in this Compendium were selected by criteria of significance and being identified as unimplemented in EPA's Management Audit Tracking System or, in some cases, through review by the OIG. Exclusion from the Compendium does not indicate the OIG's validation that a recommendation has been completed. However, it is a

goal of the OIG, through other reviews, to verify the reported completeness of as many significant recommendations as possible.

According to Office of Management and Budget Circular A-50, audit follow-up is a shared responsibility between the Agency and the OIG. We will continue to identify unimplemented recommendations for attention and action, as well as remove the listing of recommendations as unimplemented when appropriate information of completion is provided. We hope that you find this to be a useful tool in identifying ways to further improve Agency operations.

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

Bill A. Roderick
Deputy Inspector General

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Introduction

Purpose

The purpose of this Compendium of Unimplemented Recommendations is to highlight for U.S. Environmental Protection Agency (EPA) management significant recommendations that have remained unimplemented past the due date agreed upon by EPA and the Office of Inspector General (OIG). In addition, the Compendium satisfies part of Section 5(a) of the Inspector General Act of 1978, as amended, which requires each Inspector General to issue semiannual reports to Congress and include “an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed.” This Compendium is being issued as a supplement to the OIG’s Semiannual Report to Congress for the reporting period of April 1, 2008, through September 30, 2008. The OIG intends to issue this Compendium in each subsequent semiannual reporting period to keep Agency management informed about EPA’s outstanding commitments and progress in taking agreed upon actions on OIG recommendations to improve programs and operations.

Background

Recommendations are issued by EPA’s OIG to improve the economy, efficiency, effectiveness, or integrity of EPA programs and operations. Office of Management and Budget (OMB) Circular A-50, *Audit Followup*, affirms that corrective action taken by management on resolved findings and recommendations is essential to improve the effectiveness and efficiency of government operations and that audit follow-up is a shared responsibility of agency management officials and auditors.

OMB Circular A-50 requires each agency to establish systems to ensure the prompt and proper resolution and implementation of audit recommendations. EPA Order 2750, based on OMB Circular A-50, details EPA’s policy and procedures on audit follow-up. The Chief Financial Officer is the Agency Audit Follow-up Official and has responsibility for Agency-wide audit resolution and ensuring Action Officials implement corrective actions. EPA uses the Management Audit Tracking System (MATS) to track information on Agency implementation of OIG recommendations. The Office of the Chief Financial Officer maintains and operates MATS. MATS receives report data, such as the report title and issue date, from the Inspector General Enterprise Management System (IGEMS).

The Audit Management Official in the Office of the Administrator, the Office of General Counsel, and each Assistant Administrator’s or Regional Administrator’s office, designates an Audit Follow-up Coordinator for that office. Audit Follow-up Coordinators are responsible for quality assurance and analysis of tracking system data. When corrective actions in response to recommendations in an audit report are complete and certified, the Agency may inactivate that report’s MATS file and it must no longer be tracked by the Audit Follow-up Coordinator. In general, the Agency self certifies that corrective actions are complete without third party post-certification review. The Agency is also responsible under the Inspector General Act for

reporting on audit reports for which final corrective action has not been taken 1 year or more after the Agency's management decision on corrective actions to be taken in response to findings and recommendations.

On December 7, 2007, the House Committee on Oversight and Government Reform asked the OIG to send the Oversight Committee a description of unimplemented recommendations in OIG reports issued to EPA from January 2001 to December 2007, including specific information on each recommendation.

The OIG provided the requested information on unimplemented recommendations to the Oversight Committee on February 29, 2008. Additionally, the OIG issued a report to the Agency on March 31, 2008 (Report No. 08-P-0123, <http://www.epa.gov/oig/reports/2008/20080331-08-P-0123-rv.pdf>) comprising the information provided to the Committee. This Compendium of Unimplemented Recommendations is an updated and expanded version of the previous reports issued to the Oversight Committee and the Agency.

Scope and Methodology

Due to our limited scope and purpose, we did not conduct our work in accordance with all generally accepted government auditing standards issued by the Comptroller General of the United States. Specifically, we did not evaluate management controls, determine compliance with laws and regulations, or develop findings and recommendations. Further, we did not thoroughly assess the validity and reliability of data obtained from the Agency's MATS, which is used by EPA to track audit follow-up information. Although MATS was our primary source for identifying unimplemented recommendations, we did perform additional steps to search for unimplemented recommendations that may not have been identified in MATS.

We reviewed selected audit and evaluation reports issued by the EPA OIG from October 1, 1997, through March 31, 2008, to identify significant unimplemented recommendations for inclusion in the Compendium. However, we did not identify any significant unimplemented recommendations from Fiscal Years 1998, 1999, and 2000. We did not review recommendations from reports without an OIG agreement on the Agency's corrective action plan (Management Decision). A list of these reports can be found in Appendix 2 of the OIG Semiannual Report to Congress.

We excluded recommendations with future milestone dates for action. Some unimplemented recommendations that were excluded from this Compendium may, upon further review, be included in the next Compendium. A recommendation's exclusion from the Compendium does not indicate our determination that the recommendation has been implemented. We limited the unimplemented recommendations to those we believe are significant because they could have a material impact on the economy, efficiency, effectiveness, or integrity of EPA programs and operations. For this purpose, we define the following terms:

- **Economy:** Opportunity to save, prevent loss, or recover at least \$500,000 in monetary costs or value.
- **Efficiency:** Improvement in the process, capacity, accessibility, or delivery of program objectives and the elimination of unnecessary or unproductive actions or expenses.

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- **Effectiveness:** Improvement in the quality of, or reduction in the risk to, public health and the environment.
- **Integrity:** Improvement in operational accountability, enforcement of and compliance with laws and regulations, and security of resources for public confidence.

The Compendium includes 20 reports and lists 40 unimplemented recommendations. The following EPA offices have unimplemented recommendations listed in this Compendium:

Office of Administration and Resources Management (OARM)
Office of Air and Radiation (OAR)
Office of the Chief Financial Officer (OCFO)
Office of Enforcement and Compliance Assurance (OECA)
Office of Environmental Information (OEI)
Office of Policy, Economics, and Innovation (OPEI)
Office of Prevention, Pesticides and Toxic Substances (OPPTS)
Office of Solid Waste and Emergency Response (OSWER)
Office of Water (OW)

We anticipate that the Agency will provide updates in MATS on the status of each unimplemented recommendation, including a description of progress and an explanation of the delay in completing an agreed-to action.

Unimplemented Recommendations

Action Office: OARM
Report Title: EPA Should Further Limit Use of Cost-Plus-Award-Fee Contracts
Report No.: 08-P-0093 **Date Issued:** 02/26/2008

Report Summary

While EPA has paid contractors nearly \$16 million in award fees over the past 10 years on the nine contracts reviewed, it has no assurance that the use of Cost-Plus-Award-Fee (CPAF) contracts facilitates a higher level of performance than other types of contracts. EPA CPAF contracts generally contain performance indicators tied to the Agency's mission. EPA consistently provided contractors with high ratings and award fees. However, we could not determine if EPA properly awarded fees because it did not sufficiently document the basis for the ratings. Because EPA consistently provided high ratings, we believe award fees are more of an expectation for contractors rather than a factor that motivates excellence. The report was issued to OARM and Region 5. However, Region 5 has no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 2-1: We recommend that the Assistant Administrator for OARM revise the Contracts Management Manual to require that:

- a cost-benefit analysis be conducted prior to awarding a CPAF contract, and
- all CPAF contracts be approved by the contracting officer's Service Center Manager.

Status: OARM concurred that some form of a cost-benefit analysis should be done prior to awarding a CPAF contract. OARM reported it is in the process of revising the Contracts Management Manual, Chapter 16.1, *Use of Cost-Plus-Award-Fee Contracts*, to require that each contract file include documentation to show why the particular contract type was selected. In the event a Contracting Officer considers awarding a CPAF contract, they must confer with the proper advisors (legal, financial management, etc.), assess factors (price competition, price analysis, cost analysis, requirement type and complexity, etc.), and apply adequate analytical measures (cost-benefit analysis, cost-effectiveness analysis, etc.) prior to selecting a CPAF contract. Internal comments on the draft chapter have been received. Once these comments are resolved, the revised chapter will be distributed for Agency-wide comments through the Agency's Directives Clearance process. The planned completion date was September 30, 2008, but it is anticipated that the final Contracts Management Manual chapter will be approved by March 30, 2009.

Recommendation 2-2: We recommend that the Assistant Administrator for Administration and Resources Management revise the Contracts Management Manual to require work assignment

managers, project officers, contracting officers, and Performance Evaluation Board members to explicitly document the basis for award-fee decisions made.

Status: OARM reported it is in the process of revising the Contracts Management Manual, Chapter 16.1, to strengthen coordination in decision-making and documenting the basis for award fee decisions made. The Contracting Officer is responsible for reviewing the evaluation report to ensure the performance areas are evaluated in accordance with the established criteria and the results support the award fee. The revised chapter will be distributed for Agency-wide comments through the Agency's Directives Clearance process. The planned completion date was September 30, 2008, but it is anticipated that the final Contracts Management Manual chapter will be approved by March 30, 2009.

Action Office: OCFO
Report Title: Audit of EPA's Fiscal 2007 and 2006 (Restated) Consolidated Financial Statements
Report No.: 08-1-0032 **Date Issued:** 11/15/2007

Report Summary

Our primary objectives for the financial statements audit were to determine whether: EPA's consolidated financial statements were fairly stated in all material respects, EPA's internal controls over financial reporting were in place, and EPA management complied with applicable laws and regulations. Although the Agency received a clean opinion, we noted one material weakness with EPA's implementation of the "Currently Not Collectible" policy for accounts and noted six significant deficiencies. EPA was in noncompliance with regulations relating to reconciling intragovernmental transactions.

Unimplemented Recommendations

Recommendation 29: We recommend that the OCFO continue to reconcile the Agency's intragovernmental transactions and make appropriate adjustments to comply with federal financial reporting requirements.

Status: While the Agency has worked with its trading partners to reduce differences, the OIG found that material differences in transaction amounts continue to exist. The planned completion date was 12/31/07.

Recommendation 30: We recommend that the OCFO use the resolution dispute process to work with its trading partners on the treatment of accounting and accrual methodology differences.

Status: OCFO reported that the dispute resolution process is not yet operational. The Chief Financial Officer's Council (utilizing an Interagency Workgroup) has not yet established the Dispute Resolution Board. Once established, the Dispute Resolution process will be used as a last resort when cooperation cannot be obtained from OCFO's trading partners in reconciling differences, and use of the Dispute Resolution process will be for material differences only. OCFO has used the Quarterly Interagency Material Difference Report for reconciling differences with other federal agencies but there are still differences. The planned completion date was 4/30/08.

Action Office: OEI
Report Title: EPA Needs to Strengthen Its Privacy Program Management Controls
Report No.: 2007-P-00035 **Date Issued:** 09/17/2007

Report Summary

We sought to determine what steps EPA took to protect Personally Identifiable Information and the extent to which EPA put in place a management structure over the Agency's Privacy Program. We found that EPA needs to set up a more comprehensive management control structure to govern and oversee the program. EPA needs to update its Privacy Program policies and establish processes to manage and make these policies available to responsible EPA personnel. Also, EPA needs to set up compliance and accountability processes to ensure adherence with key Privacy Program tenets. A major loss of privacy information could result in substantial harm, embarrassment, and inconvenience to individuals. The report recommendations were issued to OARM and OEI, but OARM has no past-due corrective actions recorded in MATS.

Unimplemented Recommendation

Recommendation 5: We recommend that the EPA Office of Environmental Information's Director, Office of Information Collection, identify positions/job types with key Privacy Program responsibilities and develop appropriate sample cascading goals and objectives that EPA managers can use to establish Privacy Program accountability processes within their respective offices. Provide the developed guidance to the Office of Human Resources prior to distributing to Agency personnel for incorporation into the Agency's Performance Appraisal and Recognition System.

Status: OEI has identified positions with key Privacy Program responsibilities on the Privacy Program intranet site. In addition, the EPA Chief Information Officer reported that OEI is working with the Office of Human Resources to finalize sample privacy cascading goals and objectives, which will be incorporated into the Agency's Performance Appraisal and Recognition System guidance documents and made available on the Office of Human Resources' Website. The planned completion date was May 2008.

Action Office: OAR
Report Title: ENERGY STAR Program Can Strengthen Controls Protecting the Integrity of the Label
Report No.: 2007-P-00028 **Date Issued:** 08/01/2007

Report Summary

The ENERGY STAR Product Labeling Program identifies and promotes energy-efficient products. To ensure the efficiency and effectiveness of the ENERGY STAR program and the integrity of its label, EPA established several processes. These processes include product specification setting and revision, product self-certification, product verification testing, and label utilization monitoring. We reviewed these processes and found improvements could be made that could better assure the integrity of the ENERGY STAR label for the consumer of home and office products.

Unimplemented Recommendation

Recommendation 3-1: We recommend that the Principal Deputy Assistant Administrator for the Office of Air and Radiation clarify the decision criteria and document the process for revising an ENERGY STAR specification, including identifying circumstances when a specification revision would not be revised, despite a high market share of qualified products.

Status: EPA stated that it has revised ENERGY STAR Specification Development Guiding Principles. However, EPA reports that completion of the corrective action has been delayed because of the need to reach agreement with the Department of Energy on the clarification OIG has requested. The agreed-to planned completion date was March 31, 2008.

Action Offices: OECA, OSWER
Report Title: EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups
Report No.: 2007-P-00026 **Date Issued:** 06/06/2007

Report Summary

Since the 1980s, EPA has used variations of the Superfund Alternative (SA) approach to clean up Superfund National Priorities List (NPL) equivalent hazardous waste sites. The NPL is a list of the Nation's highest priority Superfund sites. The SA approach is an alternative to listing sites on the NPL. Recent reviews have reported problems in EPA's managing and implementing the SA approach. In our evaluation, we found EPA has not implemented effective management tools or controls for the SA approach.

Unimplemented Recommendations

Recommendation 2-2: We recommend that the Assistant Administrators for OECA and for OSWER collaborate to develop specific instructions on when to use the SA designation (e.g., for sites or agreements) and update the Superfund Program Implementation Manual accordingly. The instructions should include provisions that state the SA site flag should not be removed even if the site is deleted, cleaned up, or proposed for the NPL, so that controls over documentation of SA sites are maintained.

Status: OECA reported that the Agency is updating the Superfund Program Implementation Manual so the individual SA approach agreements can be identified, and sites that have SA approach agreements can be identified. When an indicator is tied directly to the SA approach agreement, that indicator will stay on the agreement even if the site itself is ultimately cleaned up under another approach. Completion is anticipated no later than March 31, 2009. The planned, agreed-to completion date was September 30, 2008.

Recommendation 3-1: We recommend that the Assistant Administrator for OSWER track and report all Superfund Government Performance and Results Act (GPRA) measures at SA sites. This includes construction completions, final remedy selection, human exposure under control, migration of contaminated groundwater under control, and site-wide ready-for-reuse. Report GPRA measures at SA sites separately from GPRA measures at NPL sites.

Status: OECA reported that the Agency will compile a separate report for GPRA measures at sites with SA approach agreements that address site-wide contamination as part of its routine end of the fiscal year reporting. The Fiscal Year 2008 report should be available soon. The planned, agreed-to completion date was September 30, 2008.

Recommendation 3-2: We recommend that the Assistant Administrator for OSWER revise applicable guidance, manuals, or directives to reflect that these performance measures will be tracked and reported for SA sites.

Status: OECA reported that the Agency is updating the Superfund Program Implementation Manual and that the manual is the primary mechanism for educating the regions on changes to data reporting. In addition, changes and implementation issues are discussed at national meetings with information and program managers and on monthly conference calls with the regional information management coordinators. Completion is anticipated no later than March 31, 2009. The planned, agreed-to completion date was September 30, 2008.

Action Office: OW
Report Title: EPA Can Improve Its Oversight of Audit Follow-up
Report No.: 2007-P-00025

Date Issued: 05/24/2007

Report Summary

Audit follow-up is essential to good management and is a shared responsibility of agency managers and audit organizations. EPA has audit follow-up procedures and designated officials who manage the process. We performed this review to determine (1) the status of corrective actions responding to OIG report recommendations for selected water reports, and (2) how complete and up-to-date is the MATS report information for selected OIG water reports. The report recommendations were issued to OECA, OW, and OCFO. However, OECA and OCFO have no past-due corrective actions recorded in MATS.

Unimplemented Recommendation

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

Status: OW planned that the Audit Management Officials and Audit Follow-up Coordinators would continue to review all audit management information, including official files, on a biannual basis. These reviews would be conducted every March and September to coincide with the Agency's requirement under EPA Order 2750 and the Inspector General Act to report to Congress on the status of completing corrective actions. OW said it would make every effort to maintain the completeness and accuracy of the information. OW planned that the Audit Follow-up Coordinators would develop and present guidance materials to all potential officials of Water program's Action Officials on the Agency's requirement under EPA Order 2750 by March 21, 2008.

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

Report Summary

Performance Track is a public-private partnership that encourages member facilities to improve the environment through using environmental management systems, local public outreach, and public reporting for results. The OIG sought to determine how Performance Track contributes to achieving environmental goals, how well it recognizes and encourages environmental leadership, and how the program tracks performance.

We found that Performance Track did not have clear plans that connected activities with its goals, and did not have performance measures that show if it achieves anticipated results. The program tied an EPA goal to member commitments, but only 2 of 30 sampled Performance Track members met all of their environmental improvement commitments. In addition, members did not have access to some program benefits.

Unimplemented Recommendation

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

Status: OPEI reported that it has completed the draft strategic plan and is in the process of receiving final comments. Final action is expected by November 15, 2008. This recommendation was originally planned for completion by December 2007.

Action Office: OEI
Report Title: EPA Could Improve Controls Over Mainframe System Software
Report No.: 2007-P-00008 **Date Issued:** 01/29/2007

Report Summary

EPA's OIG engaged KPMG, LLP to conduct an audit of access to and modification of the EPA's mainframe system software housed at the Agency's National Computer Center (NCC). The NCC is located at the Research Triangle Park campus in Raleigh, North Carolina.

KPMG identified several weaknesses in EPA's internal controls over its mainframe system software, including:

- Roles and responsibilities were not clearly assigned.
- Change controls were not performed in accordance with Agency policies.
- Policies, procedures, and guides could be strengthened.
- Security settings for sensitive datasets and programs were not effectively configured or implemented.

Unimplemented Recommendations

Recommendation 3: We recommend that the Director for Office of Technology Operations and Planning (OTOP), OEI, issue a memorandum to the NCC reinforcing management's responsibility for complying with applicable Agency policy for system change management.

Status: In response to the Discussion Draft of this Compendium, OEI reported that it has implemented this recommendation. OEI approved an updated NCC IBM Enterprise Server Change Management Directive 210.04 on October 16, 2008, and distributed a signed memorandum to the Hosting and Storage Solutions staff requiring all staff to review and follow the revised directive. The revised directive requires review and authorization of proposed changes and verification that changes have been successfully implemented. Since implementation of the recommendation occurred after September 30, 2008, the Semiannual reporting period cut-off date, we are including the recommendation in this Compendium.

Recommendation 5: We recommend that the Director for OEI-OTOP update the *Enterprise Server Standards and Procedures* to include procedures for documenting mainframe change management decisions. Ensure the procedures include identifying and documenting (1) the steps management uses to identify the changes to implement and (2) management's assessment of the impact of planned changes on the security and reliability of the mainframe processing environment.

Status: Same as for Recommendation 3.

Recommendation 9: We recommend that the Director for OEI-OTOP complete efforts to update the *OEI Information Security Manual* and the *EPA Information Security Manual*. Subsequent to finalizing the changes, ensure the manuals are (1) reviewed timely by EPA management for adequacy, accuracy, and completeness; and (2) approved by EPA management in a timely manner.

Status: OEI reported that resource challenges, including human resource and acquisition resource alignments, caused the original scheduled Agency Information Security Procedural Handbook to be delayed. Dedicated EPA staff has been assigned and a contract has been awarded. The Handbook is now scheduled for completion in March 2009.

As an interim stop gap while development of the Handbook was being planned, the EPA Chief Information Officer (CIO) issued CIO Policy Transmittal 08-005: *Agency Network Security Policy* on November 11, 2007. This Policy provided the Agency with specific references to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-37, *Guide for the Security Certification and Accreditation of Federal Information Systems*; NIST SP 800-53 r1, *Recommended Security Controls for Federal Information Systems*; NIST SP 800-100, *Information Security Handbook: A Guide for Managers*; and several other related NIST publications.

Action Office: OEI
Report Title: EPA Could Improve Processes for Managing Contractor Systems and Reporting Incidents
Report No.: 2007-P-00007 **Date Issued:** 01/11/2007

Report Summary

EPA uses contractors to collect and process information on its behalf. EPA's Computer Security Incident Response Capability defines the formal process by which EPA responds to computer security-related incidents. We found that EPA had not established procedures to ensure identification of all contractor systems. Further, EPA had not ensured that information security requirements were accessible for the contractors and appropriately maintained. Although EPA offices were aware of the Agency's computer security incident response policy, many offices lacked local reporting procedures, had not fully implemented automated monitoring tools, and did not have access to network attack trend information necessary to implement proactive defensive measures.

Unimplemented Recommendation

Recommendation 2-1: We recommend that the Assistant Administrator for Environmental Information develop and implement guidance that EPA offices can use to identify contractor systems that contain EPA data.

Status: OEI reported that resource challenges, including human resource and acquisition resource alignments, caused the original scheduled Agency Information Security Procedural Handbook to be delayed. The planned, agreed-to completion date for this corrective action was September 18, 2008. Dedicated EPA staff has been assigned and a contract has been awarded. The Handbook will address identification and certification and accreditation of contractor systems acting on behalf of the Agency and is now scheduled for completion in March 2009.

As an interim stop gap while development of the Handbook was being planned, the CIO issued CIO Policy Transmittal 08-005: *Agency Network Security Policy* on November 11, 2007. This Policy provided the Agency with specific references to the NIST SP 800-37, *Guide for the Security Certification and Accreditation of Federal Information Systems*; NIST SP 800-53 r1, *Recommended Security Controls for Federal Information Systems*; NIST SP 800-100, *Information Security Handbook: A Guide for Managers*; and several other related NIST publications. The Policy also cited the Federal Information Processing Standards Publication 199, *Standards for Security Categorization of Federal Information and Information Systems*, to address identification of government and contractor systems acting on behalf of the government.

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

Report Summary

On August 29, 2005, Hurricane Katrina devastated parts of Louisiana, Mississippi, and Alabama. EPA used existing emergency response contracts, in place at that time, to send numerous personnel to the area and purchase equipment and services to support them. Although the existing contracts allowed EPA to quickly respond to Hurricane Katrina, EPA still needed to award some noncompetitive contracts valued at about \$9 million, during its Katrina response efforts, and we identified improvements EPA can make in future disaster responses. The report was issued to OARM and OSWER. However, OARM reported in MATS that all its corrective actions have been completed.

Unimplemented Recommendations

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

Status: EPA reported that it developed and provided initial training for a Response Support Corps list of EPA Headquarters and regional personnel prepared to deploy to future incidents of national significance. OSWER developed national guidance on the training and exercise requirements for the Response Support Corps, which has been sent out for review as part of the Agency's directives clearance process to be released as an EPA Order. The Order is expected to be final in December 2008. The agreed-to completion date was December 2006.

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

Status: EPA reported that the Incident Management Handbook final version outlines the roles of key positions. OSWER stated that the equipment tracking application was moved into production in January 2007. EPA has been reviewing and modifying the design of the system, as well as populating the equipment data incrementally by all the Regions and warehouses. The system is expected to be in full use by December 2009. The agreed-to completion date was December 2006.

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

Report Summary

EPA has the authority through the Superfund program to respond directly to releases of hazardous substances and seek recovery of its costs on a site-specific basis from the responsible parties. EPA obligates costs not readily identifiable to a site to the general site identifier “WQ,” and upon payment redistributes the costs to specific sites. We found EPA did not make timely redistributions of Superfund cooperative agreement, interagency agreement, and small purchase payments from the general site identifier “WQ” to the specific Superfund sites or other general site identifiers. As of January 2006, \$39 million was recorded in “WQ” for those funding vehicles and undistributed for periods ranging from 2 months to 10 years. Without redistribution, the funds may not be recovered from responsible parties and be available for future site clean-up activities. Subsequent to our audit, EPA indicated the undistributed “WQ” was reduced. Report recommendations were issued to OARM, OCFO, and OSWER. However, OARM and OSWER reported in MATS that they have completed their corrective actions.

On August 25, 2008, the OIG issued a follow-up audit report (Report No. 08-P-0236) on the Agency’s implementation of corrective actions taken in response to Report No. 2006-P-00027, and found the corrective actions had not been completed. EPA submitted a revised corrective action plan for Report No. 2006-P-00027 as part of its response to the follow-up report. The OIG agreed to the revised plan.

Unimplemented Recommendations

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

Status: Under EPA’s revised corrective action plan, all policies related to Superfund Direct Site Charging will be contained in an updated Chapter 2 of the Resource Management and Directives System (RMDS) 2550D. The new agreed-to milestone date for implementation was July 31, 2008. Updated RMDS 2550D, Chapter 2, is currently in the Agency’s Directives Clearance process. Comments on the chapter are being reviewed, and the policy is expected to be issued in November 2008.

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

Status: OCFO reported that OCFO, OARM, and OSWER worked together to provide Award Officials a national programmatic term and condition to be included in future grants. The term and condition language has been incorporated into the draft policy that was submitted for RMDS clearance. See status for Recommendation 1.

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

Status: Same as for Recommendation 1.

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

Status: Same as for Recommendation 1.

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

Report Summary

Contaminated sediments are the soils, sands, organic matter, and other minerals that accumulate at the bottom of a water body and contain toxic or hazardous materials that may adversely affect human health and the environment. We sought to determine the effectiveness and outcomes achieved from EPA's Contaminated Sediment Management Strategy. In particular, we evaluated whether federal authorities and resources provided effective solutions, and how well EPA measured strategy effectiveness and assessed contamination. The report was issued to OSWER, OW, OECA, OA, and the Office of Research and Development (ORD). However, OECA, OA, and ORD have no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 2-4: We recommend that the Acting Assistant Administrator for OSWER use the watershed approach, including concepts from the Urban Rivers Restoration Initiative, at contaminated sediment National Priorities List sites in high priority watersheds.

Status: EPA conducted Webcast training on the *Integrating Water and Waste Programs to Restore Watersheds* manual on July 11, 2006. Additionally, EPA planned to conduct a 2-day training workshop on the manual at three EPA regional offices using information from an actual watershed selected by the region hosting the training. The planned completion date was fall/winter 2006/2007. OSWER reported that a workshop on Integrating Water and Waste Programs to Restore Watersheds was held in Region 9 in February 2008. The attendees included Region 9 Superfund and Water offices, California water program officials, U.S. Geological Survey representatives, tribal representatives, and local watershed groups. As a result of the workshop, an interactive Website is being developed to facilitate communication between water and waste programs for the watershed. The next workshop is scheduled for March 2009 in Region 4.

Recommendation 3-1: We recommend that the Assistant Administrator for OW develop and implement a plan for future National Sediment Quality Survey (NSQS) reports that, consistent with the Water Resources Development Act, provides a comprehensive national assessment of the extent and severity of contaminated sediments. At a minimum the design should:

a. Use a statistical sampling approach as the basis for collecting data from EPA and other sources and assessing the national extent and severity of contaminated sediments. As a cost savings alternative, consider using statistical sampling in conjunction with existing data for the national assessment. Improve the completeness and availability of sample location information (metadata), quality assurance/quality control information, and assessment parameters for future NSQS reports.

Status: OW planned to work with ORD to determine if a statistical design for collecting contaminated sediment data is practical and, if practical, develop a statistical design. OW will also develop electronic transfer protocols with other EPA offices, the National Oceanic and Atmospheric Administration, and States to collect contaminated sediment data that can be used for the next NSQS. The planned completion date was spring 2007.

b. Ensure that the National Sediment Inventory and future NSQS reports include contaminated sediment data from all major sources, including the Great Lakes National Program Office and Superfund program. At a minimum, establish a formal coordination process for acquiring contaminated sediment data from EPA program offices and applicable agencies and organizations outside EPA. Also, consider cost-effective options for acquiring and compiling contaminated sediment data maintained in paper format.

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

Recommendation 3-2: We recommend that the Assistant Administrator for OW determine a reporting frequency for the NSQS report that is both useful for decision makers and achievable for EPA, disclose to Congress that EPA cannot meet the current biennial reporting requirement specified by Section 503 of the Water Resources Development Act, and provide Congress an alternative reporting schedule for consideration.

Status: 1. OW planned to consult with ORD experts on sediment fate and transport to determine how much time, in general, it takes for sediment contaminant concentrations to change such that the difference can be measured. OW expects that this analysis will consider the range of deposition and degradation rates in several watersheds. This will enable OW to determine a reporting frequency based on science. The planned completion date was December 31, 2006.

2. As part of the workplan being developed in response to Recommendation 2-1, determine the actual programmatic needs of other EPA programs for the NSQS data and analysis. This will enable OW to determine a reporting frequency based on the real needs of programs for this information. The date of this action is the completion of the workplan that responds to Recommendation 2-1. The planned completion date was June 30, 2006.

Action Office: OSWER
Report Title: EPA Can Better Manage Superfund Resources
Report No.: 2006-P-00013

Date Issued: 02/28/2006

Report Summary

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

EPA has been unable to allocate and manage Superfund resources for clean-up as efficiently and effectively as possible because of the way the Agency accounts for program resources, manages by functions, supplements the program with other funds, relies on an outdated workload model, and maintains unliquidated Superfund obligations and funds in special accounts. Closely aligning offices that support the Superfund program and producing program performance and cost data have been limited because EPA disperses the responsibility for allocating and managing program resources. As of September 2005, approximately \$465 million in special accounts was potentially available for transfer to the Trust Fund, though not all of these funds may have been available immediately.

Unimplemented Recommendations

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

Status: EPA reported in MATS that Recommendation 2-3 is partially implemented. There were two planned corrective actions to address this recommendation. To support management decision making, EPA modified Superfund E-Facts to reflect Superfund site cost data. The module is available for use by EPA staff. That action is considered completed. OCFO is in the process of determining if the Agency's new centralized financial management system, which is being tested this fall, will solve the issue. If not, OCFO may consider having system adjustments made.

Recommendation 2-5 – Determining Superfund Resource Needs and Allocations: We recommend to the Assistant Administrator for OSWER that EPA should conduct a workforce assessment and/or develop a workload model, comprehensively reevaluate regional and Headquarters Superfund personnel levels and allocations, and develop and communicate a schedule to regularly evaluate Superfund workload models. Superfund removal needs and current allocations should be reviewed. Consideration of factors including regional/State capacity to conduct removals, nature of prior removal actions in regions/States, nature of regulated businesses/activities in regions/States, and the type or volume of hazardous material transport that occurs in regions/States may assist need or allocation decisions.

Status: OSWER reported that the Superfund Program conducted a workload assessment project that will allow the Agency to estimate the workload under alternative program management scenarios for offices with Superfund resources in the regions and in Headquarters. The analysis was completed in May 2008. The Regional Directors have concurred on the draft final report. The final report is being forwarded to the Superfund Board of Directors for concurrence. Concurrence is expected by November 30, 2008. The planned, agreed-to milestone date for this recommendation was January 31, 2007.

Action Office: OPPTS
Report Title: Opportunities to Improve Data Quality and Children's Health through the Food Quality Protection Act
Report No.: 2006-P-00009 **Date Issued:** 01/10/2006

Report Summary

OIG performed this review to examine the impact of the Food Quality Protection Act of 1996 on the EPA's need for scientific data and predictive tools, particularly in relation to children's health. This report is the second in a series of three reports on the Food Quality Protection Act's impact on EPA regarding children's health. OIG specifically sought in this review to determine:

- What data requirements were required by the Food Quality Protection Act;
- Whether testing guidelines, requirements, and evaluation procedures allow EPA's Office of Pesticide Programs (OPP) to determine the potential adverse effects of pesticide exposure on the developing nervous system;
- What challenges OPP overcame and what opportunities exist for OPP to acquire better pesticide exposure data to aggregate risks;
- What challenges exist and what opportunities are available for OPP to improve cumulative risk assessments; and
- What opportunities exist to better manage pesticide health risk for children.

Unimplemented Recommendations

Recommendation 3-1: We recommend that the Acting Assistant Administrator for OPPTS develop a Standard Evaluation Procedure to assess results of developmental neurotoxicity testing. Within this Procedure, incorporate a discussion on the developmental neurotoxicity data call-in results and address which indicator, or combination of indicators, is considered most sensitive and meaningful for assessing developmental neurotoxicity from exposures during critical windows of development.

Status: OPP planned to develop a standard evaluation procedure for developmental neurotoxicity studies. OPP would provide overall instructions and guidance to toxicology reviewers on whether the study was conducted, documented, and reported properly, and how to interpret the results for hazard assessment purposes. The planned completion date was December 2006. OPP reports that the work is ongoing. Additional time is needed for the review of many studies (73 to date) and to develop statistical procedures for analyzing study results. Not yet finalized, a standardized statistical procedure for analyzing developmental neurotoxicity acoustic startle studies has been developed. OPP is also exploring methods to look at the rate of pup body weight growth. OPP expects to complete the actions for this recommendation by December 2010.

Recommendation 4-1: We recommend that the Acting Assistant Administrator for OPPTS update the dietary exposure databases used in probabilistic models for risk assessments as soon as the food consumption data from the 2003-2004 National Health and Nutrition Examination Survey become available in 2006. EPA should also update the Food Commodity Intake

Database with the latest food consumption survey data, and if possible use data such as the Gerber Products Company's Feeding Infants and Toddlers Study.

Status: OPP planned to update the food consumption data in 2006 when the U.S. Department of Agriculture and Department of Health and Human Services released the 2003 and 2004 food intake data sets. The planned completion date was December 2006. OPP reports that it is currently working on updating the food consumption data. OPP statisticians are developing strategies for combining surveys from different sets of years in the National Health and Nutrition Examination Survey to develop a database of adequate size. OPP is working with ORD and OW toward incorporating an updated Food Commodity Intake Database into OPP's exposure and risk assessment software. OPP anticipates completing the actions for this recommendation by spring 2009.

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

Report Summary

This report responded to a congressional request that OIG evaluate the process for developing the EPA's 2003 proposed rule for regulating disposable and reusable solvent-contaminated industrial wipes. The OIG found the following regarding specific concerns presented to us by Congress related to EPA rulemaking for industrial wipes:

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

Although the recommendations in this report were originally addressed to OPEI and OSWER, OPEI became the lead action office and is responsible for the unimplemented recommendation.

Unimplemented Recommendation

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

Status: OPEI agreed to the recommendation and planned to issue the guidance in 2006. Upon further consideration, OPEI decided to address the issue with a memorandum to Agency senior managers directing them to "an abundance of resources currently available to EPA rulewriters and action developers on maintaining an open and fair dialogue with stakeholders and other interested parties." The memorandum was issued on January 14, 2008, and is available on EPA's intranet site. It is incorporated into the Action Development Process and training for rulewriters Agency-wide. On October 17, 2008, OPEI requested approval from the OIG for this change in the corrective action plan. The OIG decision is pending.

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

Report Summary

To enforce its regulations and achieve maximum compliance, a regulatory agency must know its entire regulated universe. We sought to determine how well OECA knows the composition and size of its regulated universe, as well as how OECA determines and reports compliance levels. We found OECA has limited knowledge of the diverse regulated universe for which it maintains responsibility. OECA has not updated its universe table since generating it in 2001, even though some universe figures for reviewed program areas have changed substantially. Various data quality issues impact OECA's ability to adequately identify the size of its regulated universe and associated compliance information. OECA concentrates most of its regulatory activities on large entities and knows little about the identities or cumulative impact of small entities.

Unimplemented Recommendation

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

Status: EPA agreed to develop a policy, in collaboration with States, for data to be collected and tracked by States for the Clean Water Act-National Pollutant Discharge Elimination System (NPDES) program in the Integrated Compliance Information System (ICIS)-NPDES. EPA does not plan to conduct a multi-program pilot. On April 30, 2007, EPA distributed a draft ICIS-NPDES Policy Statement to the Environmental Council of States and the Association of State and Interstate Water Pollution Control Administrators for review and comment. The original planned completion date for this recommendation was July 2006. However, EPA determined that undergoing a rule-making process is necessary and is pursuing a rule to address this recommendation.

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

Report Summary

Title V of the Clean Air Act, designed to reduce violations and improve enforcement of air pollution laws for the largest sources of air pollution, requires that all major stationary sources of air pollutants obtain a permit to operate. More than 17,000 sources are subject to Title V permit requirements. Our analysis identified concerns with five key aspects of Title V permits: (1) permit clarity, (2) statements of basis, (3) monitoring provisions, (4) annual compliance certifications, and (5) practical enforceability. One finding in particular relates to compliance certifications and wording on credible evidence. When EPA amended the rule on continuous or intermittent compliance,¹ a key clause on credible evidence was inadvertently left out. (Recommendation 2-2 addresses this issue.)

Collectively, these problems can hamper the ability of EPA, State and local regulators, and the public to understand what requirements sources are subject to, how they will be measured, and ultimately to hold sources accountable for meeting applicable air quality requirements. EPA's oversight and guidance of Title V activities have resulted in some improvements in Title V programs; however, areas needing further improvement remain.

Unimplemented Recommendations

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

Status: EPA stated in MATS that, based on recommendations from the Clean Air Act Advisory Group Task Force on Title V Implementation, the Office of Air Quality Planning and Standards has begun developing a guidance document that will include, among other topics, guidance on compliance certifications. However, EPA has not submitted a formal action plan, stating how it plans to address this recommendation, to the OIG for approval.

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

Status: EPA did not concur with this recommendation, and it remains unresolved. The Agency plans to provide additional information and request that the OIG reconsider Recommendation 2-2. The OIG believes this recommendation is key to knowing the

¹ 40 Code of Federal Regulations 70.6 (c)(5)(iii)(B)

basis of the permittee's reported compliance with the terms and conditions of its Title V permit that underlies its annual compliance certification.

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

Status: OAR plans to work with the regions to disseminate information about the positions EPA has taken on statements of basis in response to citizens programs and permit petitions. OAR also intends to develop a plan for identifying and sharing with permitting agencies those statements of basis that represent "best practices." This effort is planned to be included in guidance documentation addressing Recommendation 2-1. However, EPA has not submitted a formal action plan, stating how it plans to address this recommendation, to the OIG for approval.

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

Status: EPA did not concur with this recommendation, and it remains unresolved. The Agency plans to provide additional information and request that the OIG reconsider Recommendation 3-1. The OIG believes this issue involves basic program criteria needed for EPA to oversee the Title V program.

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

Report Summary

The reductions in industrial waste discharges to the nation's sewer systems that characterized the early years of the pretreatment program have not endured. Since the middle of the 1990s, there has been little change in the volume of a broad list of toxic pollutants transferred to Publicly Owned Treatment Works or in the index of risk associated with these pollutants. As a result, the performance of EPA's pretreatment program, which is responsible for controlling these discharges, is threatened, and progress toward achieving the Clean Water Act goal of eliminating toxic discharges that can harm water quality has stalled.

The curtailing of the early gains may be explained in part by two factors: (1) dischargers that developed systems in response to EPA's initial program requirements have not enhanced their pretreatment systems in recent years, and (2) the rate at which EPA has been issuing effluent guidelines dramatically declined since 1990. Without more visible leadership from Headquarters, improved programmatic information, and the adoption of results-based performance measures, EPA's pretreatment program is at risk of losing the gains it made in its early years.

Unimplemented Recommendations

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

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

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

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

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

Report Summary

The September 11, 2001, terrorist attack on the World Trade Center in New York City and the environmental aftermath were unprecedented. Responding to this crisis required organizations from all levels of government to coordinate their response efforts and to make critical public health and safety decisions quickly, and without all of the data that decision-makers would normally desire. Many persons interviewed spoke highly of the response of EPA and its employees. Still, we, as well as EPA and others, identified lessons learned from the response that can improve EPA's preparedness for future disasters.

We found that when EPA made a September 18 announcement that the air was "safe" to breathe, it did not have sufficient data and analyses to make such a blanket statement. In addition, work practices applicable to the transport of asbestos debris from the site were employed inconsistently, and the specific impact on air quality of any variance from EPA's asbestos emergency work practices is unknown. Also, we believe that EPA could have taken a more proactive approach regarding indoor air clean-up and more measures can be taken to ensure that indoor clean-up effectively minimizes health risk exposure. Further, there were indications that the public did not receive sufficient air quality information and wanted more information on associated health risks. An overriding lesson learned was that, in a disaster, EPA needs to be prepared to assert its opinion and judgment on matters that impact human health and the environment since, ultimately, the public, Congress, and others expect EPA to monitor and resolve environmental issues.

Unimplemented Recommendations

In part due to a lapse in coordination between the Administrator's Office and OSWER, corrective actions agreed to by the OIG in 2004 in response to the recommendations in this report were not tracked, and the report was incorrectly closed out in MATS when some corrective actions were still ongoing or planned. The OIG met with EPA to resolve these issues. As a result, OSWER submitted a revised corrective action plan in September 2008, which identifies the corrective actions that have already been taken in response to most of the recommendations and proposes new, alternative corrective actions for the unimplemented recommendations. An OIG decision on the revised plan is pending.

Action Office: OECA
Report Title: State Enforcement of Clean Water Act Dischargers Can Be More Effective
Report No.: 2001-P-00013 **Date Issued:** 08/14/2001

Report Summary

The objective of the audit was to determine whether State enforcement of Clean Water Act discharge programs protect human health and the environment. Forty-four States play a major role in implementing the Clean Water Act's NPDES program. These States have EPA approval to issue and enforce permits that set limits on pollutants that can be discharged into our nation's surface waters. The OIG evaluated State enforcement of discharge programs in three regions; within each region, we evaluated one EPA-approved State program. We also took into account information from five State audits.

The OIG believes that State enforcement programs could be much more effective in deterring noncompliance with discharge permits and, ultimately, improving the quality of the nation's water. EPA and the States have been successful in reducing point source pollution since the Clean Water Act passed in 1972. However, despite tremendous progress, nearly 40 percent of the nation's assessed waters are not meeting the standards States have set for them.

Unimplemented Recommendations

Recommendation 3-1: We recommend that the Assistant Administrator for OECA make modernizing the Permit Compliance System (PCS) a high priority. Further, ensure that future systems:

- Require electronic submission and evaluation of self-monitoring reports for all dischargers, including minor facilities and storm water.
- Track storm water permits, inspections, compliance rates, and enforcement actions.

Status: OECA has been granted a time extension to April 1, 2009, to complete the first part of this recommendation. For the second part of the recommendation, OECA reported that the new ICIS-NPDES does include the capacity to track items listed above. On April 30, 2007, EPA issued a draft ICIS-NPDES Policy Statement for review and comment which includes requisite data elements to be entered into ICIS. The policy was opposed by States. OECA is pursuing a rule to require the data.

Recommendation 3-2: We recommend that the Assistant Administrator for OECA accelerate the development of the Interim Data Exchange Format for the PCS. Also, before proceeding further into design and development, work with OW to ensure there is an up-to-date policy statement for water system criteria.

Status: OECA reported that the Interim Data Exchange Format was successful for States that pass their data into PCS. EPA is not investing any additional resources for flowing data to PCS, but is focusing on an improved process for batch flow into ICIS-NPDES that will be piloted in spring 2008. The policy was opposed by States. Therefore, OECA is pursuing a rule to require submission of the data by States.

Recommendation 3-4: We recommend that the Assistant Administrator for OECA continue to report the PCS as an Agency-level weakness until the modernization project is implemented and the system data is reasonably accurate and complete.

Status: OECA monitors/tracks this effort as part of the Agency's Annual Assurance process. Under the Federal Managers' Financial Integrity Act, OECA tracks PCS as an Agency level weakness. This will be a reportable weakness under the Act until Fiscal Year 2013, and will be monitored as part of the Act until such time it is successfully implemented, or the Agency's Administrator determines it is appropriate to remove as an Agency level weakness. OECA had planned for the data requirements to be finalized in July 2002 and system design specifications in September 2002.

Recommendation 3-5: We recommend that the Assistant Administrator for OECA revise guidance to specify that whole effluent toxicity violations are significant violations. Revise regulations to require whole effluent toxicity violations to be reported on quarterly noncompliance reports.

Status: OECA reported that its success in meeting this recommendation is dependent on OW's progress in developing new whole effluent toxicity permit guidance. OW has deferred their work on this guidance indefinitely, and OECA has requested written documentation of this decision from OW. OECA has been unable to obtain this documentation to date. Consequently, OECA does not plan to consider issuing new whole effluent toxicity enforcement guidance at this time. OECA had planned for the guidance to be issued in 2003.

***OIG Reports with Unimplemented Recommendations
by Program Office
(as of September 30, 2008)***

OAR

2007-P-00028, *ENERGY STAR Program Can Strengthen Controls Protecting the Integrity of the Label*

2005-P-00010, *Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to Be Fully Realized*

OARM

08-P-0093, *EPA Should Further Limit Use of Cost-Plus-Award-Fee Contracts*

OCFO

08-1-0032, *Audit of EPA's Fiscal 2007 and 2006 (Restated) Consolidated Financial Statements*

2006-P-00027, *EPA Could Improve Its Redistribution of Superfund Payments to Specific Sites*

OECA

2007-P-00026, *EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups*

2005-P-00024, *Limited Knowledge of the Universe of Regulated Entities Impedes EPA's Ability to Demonstrate Changes in Regulatory Compliance*

2001-P-00013, *State Enforcement of Clean Water Act Dischargers Can Be More Effective*

OEI

2007-P-00035, *EPA Needs to Strengthen Its Privacy Program Management Controls*

2007-P-00008, *EPA Could Improve Controls Over Mainframe System Software*

2007-P-00007, *EPA Could Improve Processes for Managing Contractor Systems and Reporting Incidents*

OPEI

2007-P-00013, *Performance Track Could Improve Program Design and Management to Ensure Value*

2006-P-00001, *Rulemaking on Solvent-Contaminated Industrial Wipes*

OPPTS

2006-P-00009, *Opportunities to Improve Data Quality and Children's Health through the Food Quality Protection Act*

OSWER

2007-P-00026, *EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups*

2006-P-00038, *Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist*

2006-P-00016, *EPA Can Better Implement Its Strategy for Managing Contaminated Sediments*

2006-P-00013, *EPA Can Better Manage Superfund Resources*

2003-P-00012, *EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement*

OW

2007-P-00025, *EPA Can Improve Its Oversight of Audit Follow-up*

2006-P-00016, *EPA Can Better Implement Its Strategy for Managing Contaminated Sediments*

2004-P-00030, *EPA Needs to Reinforce Its National Pretreatment Program*