



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Compendium of Unimplemented Recommendations as of March 31, 2009

Report No. 09-N-0148

April 30, 2009



Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
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
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
OSWER	Office of Solid Waste and Emergency Response
OW	Office of Water
PRP	Potentially Responsible Party
SCORPIOS	Superfund Cost Recovery Package Imaging and On-Line System



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

OFFICE OF
INSPECTOR GENERAL

April 30, 2009

MEMORANDUM

SUBJECT: Compendium of Unimplemented Recommendations as of March 31, 2009
Report No. 09-N-0148

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

Attached is the Semiannual Compendium of Unimplemented Recommendations as of March 31, 2009, 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 EPA Audit 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.

The significance of audit follow-up, as described by OMB Circular A-50, is enhanced by the public's expectation for greater transparency and a heightened interest by Congress in realizing potential opportunities for improvement in the Federal Government. The OIG's initial report on unimplemented recommendations in April 2008 followed by the first edition of the Compendium in October 2008 appear to be having the intended effect in terms of greater Agency awareness of, and action on, unimplemented 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 tool useful in identifying ways to further improve Agency operations.

A handwritten signature in black ink, appearing to read "Bill A. Roderick". The signature is written in a cursive style with a horizontal line underneath it.

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 October 1, 2008, through March 31, 2009. 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 completed and certified, the Agency may inactivate that report’s MATS file and it must no longer be tracked by the Audit Follow-up Coordinator. The Agency self-certifies that corrective actions are completed. 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.

This is the second edition of the Compendium of Unimplemented Recommendations. It identifies 32 unimplemented recommendations from 18 reports compared to 40 unimplemented recommendations from 20 reports identified in the first edition of the Compendium for the period ending September 30, 2008. Of the 32 unimplemented recommendations currently reported, 22 from 14 reports are continuing, and 10 from 4 reports are newly identified. Also, 18 unimplemented recommendations from 6 reports identified in the previous Compendium have been removed from this current edition. Please note that several recommendations may be attributable to a single report, so that a report could have a combination of unimplemented recommendations reported as continuing, newly reported, and removed. Also, please note that removal of an unimplemented recommendation does not necessarily imply that it was verified as implemented, but only reported as completed or that the target completion date was revised with OIG approval.

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 September 30, 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, 2000, 2002 and 2003. 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.
- **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.

Compendium of Unimplemented Recommendations as of March 31, 2009
(Report No. 09-N-0148)

The Compendium includes 18 reports and lists 32 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: OECA
Report Title: EPA Needs to Track Compliance with Superfund Cleanup Requirements
Report No.: 08-P-0141 **Date Issued:** 04/28/2008

Report Summary

According to EPA's Superfund information system, there were 3,397 active Superfund enforcement instruments to ensure cleanups at National Priorities List (NPL) sites as of September 30, 2007. Yet, EPA does not nationally compile or track data on substantial non-compliance with the terms or requirements of these instruments. Therefore, we were not able to fully determine whether the regions have resolved Superfund instrument violations consistent with criteria and authorities. In 2000, though, EPA recognized it needed to improve in this area; it issued an internal report recommending that the regions improve their data on the compliance status of Superfund enforcement instruments and responses to noncompliance. However, EPA has not implemented this recommendation. Consequently, the Agency lacks the internal controls necessary to monitor compliance with Superfund instruments nationally. The report recommendations were issued to OECA and Region 5. However, Region 5 has no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 1: We recommend that the Assistant Administrator for OECA request that the regions input compliance status data for Superfund instruments in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). Limit the CERCLIS input for the "In Violation" designations to issues that meet OECA's definition for substantial noncompliance.

Status: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Significant Noncompliance Workgroup and the CERCLA Compliance Tracking Workgroup reached a consensus on defining significant noncompliance and system enhancements that will allow regions to track and update compliance information in CERCLIS. The products of the workgroups were integrated into a draft, *Guidance on Tracking Substantial Noncompliance with CERCLA Enforcement Instruments in CERCLIS*. OECA is addressing the comments received from the regions and will ask EPA's General Counsel to review the guidance. Revisions to the guidance in response to comments will also result in minor changes to the compliance status values list in CERCLIS. OECA plans to complete this corrective action by June 30, 2009. The agreed-to completion date was December 31, 2008.

Recommendation 5: We recommend that the Assistant Administrator for OECA monitor Region 5's progress in establishing an enforceable Superfund instrument for the Muskego Landfill Site that provides specific response actions and milestones to address the off-site contamination issues. If Region 5 is unable to finalize this Superfund instrument, take appropriate actions to ensure that enforceable response actions and milestones to address the contamination issues are established.

Status: OECA conferred regularly with Region 5 about the Muskego Landfill enforcement process. Region 5 reports that discussions with the PRP for an Administrative Order on Consent for off-site ground-water investigations have been extremely productive. They have agreed on a scope of work for all necessary off-site investigations. However, Region 5 and the PRP have agreed that it is best to terminate the Administrative Order on Consent negotiations and immediately begin negotiations for a consent decree to replace the existing unilateral administrative order. The consent decree will have to update requirements for all aspects of the Remedial Design/Remedial Action and put EPA in a better position to expedite implementing any additional requirements to protect the public's use of groundwater near the site. More documentation on this matter is included in OECA's official files. OECA plans to complete this corrective action by September 30, 2009. The agreed-to completion date was March 31, 2009.

Action Office: OCFO, OECA

Report Title: EPA Can Recover More Federal Superfund Money

Report No.: 08-P-0116

Date Issued: 03/26/2008

Report Summary

CERCLA (Superfund) authorizes the Federal Government, States, and private parties to recover Superfund cleanup expenses (costs) from potentially responsible parties. When EPA conducts such cleanup and oversight work, it takes actions to recover those costs from responsible parties. We evaluated EPA's Superfund cost recovery and billing practices at a sample of NPL sites and found that EPA regions have recovered \$165 million of \$294 million (56%) of the total Superfund costs from those sites. Potentially responsible parties at these sites have generally paid what they have been billed, but EPA has not recovered as much as \$129 million (44%) and has determined it will not try to recover between \$30 million and \$90 million of this amount. This situation indicates a potentially significant breakdown in controls over Superfund cost recovery.

Unimplemented Recommendations

Recommendation 2: We recommend the EPA Chief Financial Officer and the Assistant Administrator for OECA work collaboratively to implement mechanisms to:

- Support calculation of site cost recovery efficiency - Track the resolution of each cost as determined in the annual billing process. Resolutions could include billed, not billed for a specified reason, and pending.
- Track corrections - Identify incorrect costs until they are corrected.

Both of these mechanisms could be implemented through enhancements to Superfund Cost Recovery Package Imaging and On-Line System (SCORPIOS).

Status: EPA planned to explore ways to enhance information systems to develop a mechanism that supports calculating cost-recovery efficiency and tracking error corrections through identification and resolution. The agreed-to completion date was December 31, 2008, the same day EPA proposed a new schedule for corrective action. EPA plans to add a dropdown box to SCORPIOS highlighting the rationale for removing Unbilled Costs. The SCORPIOS enhancements will be piloted in May 2009. In November and December of 2009, EPA plans to develop reports to track both the removal of Unbilled Costs and any corrections for timely inclusion in a billing package.

Recommendation 3: We recommend the EPA Chief Financial Officer and the Assistant Administrator for OECA work collaboratively to implement mechanisms to implement performance measures to track cost-recovery efficiency.

Status: EPA planned to convene a workgroup to address program efficiency measures. OSWER and OECA agreed to assist OCFO with its developing and implementing a viable cost-recovery efficiency measure. The agreed-to completion date was December 31, 2008. On March 23, 2009, EPA proposed a change in the corrective actions for this recommendation. The OIG did not approve the change. EPA is considering further revisions to its corrective action plan.

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 using 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 recommendations were 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 reported it revised 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 Contracting Officers consider awarding CPAF contracts, they must confer with the proper advisors, assess factors, and apply adequate analytical measures (cost-benefit analysis, cost-effectiveness analysis, etc.) prior to selecting CPAF contracts. The revised chapter is on schedule to be published by April 30, 2009. The agreed-to completion date was September 30, 2008.

Recommendation 2-2: We recommend that the Assistant Administrator for OARM 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 revised 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 that the performance areas are evaluated in accordance with the established criteria and the results support the award fee. The revised chapter is on schedule to be published by April 30, 2009. The agreed-to completion date was September 30, 2008.

Action Office: OEI
Report Title: Improved Management Practices Needed to Increase Use of Exchange Network
Report No.: 2007-P-00030 **Date Issued:** 08/20/2007

Report Summary

EPA established a partnership with the Exchange Network's governance bodies to assist them with accomplishing Network initiatives. The Exchange Network is a secure Internet and standards-based approach for exchanging environmental data and improving environmental decisions. EPA, State environmental departments, U.S. tribes, and territories have acted as partners in building the Network. By using Network nodes (interconnected computers), the Network provides access to, and exchange of, environmental data. This node-to-node exchange of data is intended to increase efficiency through automation and reduce reporting burden.

The Exchange Network Business Plan stresses the importance of having an effective collaborative partnership between EPA, the Network governance bodies, and the Network partners. Since EPA intends for the Exchange Network to become the preferred method for exchanging environmental data and foresees expanding the Network, EPA should take steps to improve Network use. Without taking action, EPA would not know when or whether its partners would adopt the Network as the preferred method to share data with EPA. As such, EPA investments in the Network would not yield the desired outcomes.

Unimplemented Recommendations

Recommendation 2-2: We recommend that the Deputy Assistant Administrator for OEI have the Director, Office of Information Collection, modify Exchange Network change management policies and procedures to include step-by-step processes for fully testing and certifying all implementation tools before release to the Exchange Network community.

Status: OEI reported that the Network Technical Group, an organization of State, tribal, EPA representatives, and a subgroup of the Network Operations Board will perform this function. It will take additional steps to develop and publish these procedures to the Network Web site, <http://www.exchangenetwork.net>. The Network Technical Group Fiscal Year 2008 work plan includes an update to the change management procedures to reflect how the Group will test and certify Exchange Network tools. Therefore, the Group will develop an updated set of change management procedures and post these to the Exchange Network website. The agreed-to completion date was July 31, 2008. The corrective action was completed on April 3, 2009. Since implementation of the recommendation occurred after March 31, 2009, the Semiannual reporting period cut-off date, we are including the recommendation in this Compendium.

Recommendation 4-2: We recommend that the Deputy Assistant Administrator for OEI work with the Exchange Network governance bodies to develop procedures for establishing *ad hoc* workgroups for Exchange Network projects.

Status: OEI stated that the Network Operations Board's Fiscal Year 2008 work plan includes developing a process for engaging new Integrated Project Teams when they form and for standardizing the guidance and expectations which are communicated to them. The agreed-to completion date was September 30, 2008. OEI reports that rather

than procedures for Integrated Project Teams or workgroups, the Network Operations Board and Network Technical Group have instead focused on creating and refining the governance mechanisms for ensuring that the products created by *ad hoc* workgroups meet the Exchange Network standards and guidance. OEI plans to propose and discuss with the OIG a revised corrective action plan to reflect the changes in corrective actions for this recommendation and the two following recommendations.

Recommendation 5-1: We recommend that the Deputy Assistant Administrator for OEI have the Director, Office of Technology Operations and Planning, publish standards that specify when EPA program offices must use the Exchange Network when modernizing or developing applications. The standards should also specify the processes EPA offices must follow when the office cannot adhere to the established standards or select an alternate technological solution to the one prescribed.

Status: OEI agreed to publish standards that specify when EPA program offices must use the Exchange Network when modernizing or developing applications. The agreed-to completion date was December 31, 2008. OEI reports that the “decision tree” approach was abandoned as well as the deadlines and dates originally set related to it. Office of Technology Operations and Planning and Office of Information Collection have instead embarked on an information collection procedure under the enterprise architecture to achieve this goal. Estimated completion will be December 2009. As explained above, this corrective action change will be incorporated in the revised corrective action plan.

Recommendation 5-2: We recommend that the Deputy Assistant Administrator for OEI have the Director, Office of Technology Operations and Planning, include the Exchange Network and related technologies as part of the Agency’s Enterprise Architecture.

Status: OEI reports that it has started defining “decision tree” logic for Enterprise tools and completed high-level decision tree logic for data collection service for Central Data Exchange, EPA’s Node on the Exchange Network, and Portal. In addition, work is underway on high-level decision tree logic for Identity and Access Management service. EPA also intends to incorporate standards into Enterprise Architecture compliance criteria dependent upon the timetable for recommendation 5-1 above. The agreed-to completion date was December 31, 2008. OEI is expanding the action to include a new element, the Information Sharing Segment Architecture, which EPA committed to OMB to develop to specify more clearly how the Exchange Network/Central Data Exchange works as a key aspect of EPA information sharing. This architecture, centered on the Central Data Exchange, will further formalize the role and use of the Central Data Exchange and Exchange Network. As explained above, this corrective action change will be incorporated in the revised corrective action plan.

Action Offices: 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 approach to clean up Superfund NPL-equivalent hazardous waste sites. The NPL is a list of the Nation's highest priority Superfund sites. The Superfund Alternative approach is an alternative to listing sites on the NPL. Recent reviews have reported problems in EPA's managing and implementing the Superfund Alternative approach. In our evaluation, we found EPA has not implemented effective management tools or controls for the Superfund Alternative approach. The report recommendations were issued to OSWER and OECA. However, OECA has no past-due corrective actions reported in MATS.

Unimplemented Recommendations

Recommendation 3-1: We recommend that the Assistant Administrator for OSWER track and report all Superfund Government Performance and Results Act (GPRA) measures at Superfund Alternative 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 Superfund Alternative sites separately from GPRA measures at NPL sites.

Status: OECA reported that OSWER now has the ability to track and report accomplishments at sites with Superfund Alternative approach agreements and is currently determining the format and recipients of the annual report. Completion is expected in June 2009. The 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, biannually. 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 OW officials on the Agency's requirement under EPA Order 2750 by March 30, 2009. OECA completed its corrective action for this recommendation.

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. The National Computer Center 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 Recommendation

Recommendation 9: We recommend that the Director for OEI, Office of Technology Operations and Planning, 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 June 2009.

As an interim stopgap 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. The report was issued to OEI and OARM. However, OARM reported in MATS that its one corrective action has been completed.

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 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 identifying, certifying, and accrediting contractor systems acting on behalf of the Agency. A draft Agency Information Security Manual has been presented to an Agency workgroup. The Handbook is now scheduled for completion in June 2009.

As an interim stopgap while developing 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 identifying government and contractor systems acting on behalf of the government.

Action Office: OSWER, OARM
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; we identified improvements EPA can make in future disaster responses. OARM reported that it has completed the areas of Recommendations 2-1 and 4-1 (Bullets 2 and 5) within its purview.

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. OSWER reports that even though the Order is not final, EPA regions and Headquarters are following its requirements. OSWER expects the final Order to be issued by May 30, 2009. The agreed-to completion date was December 2006.

Recommendation 3-2: We recommend that the Assistant Administrator for OSWER, in conjunction with OARM ensure that contract clauses to limit charges for contractor-owned equipment flow down from the prime contract to the subcontracts.

Status: EPA reported in MATS that this recommendation was implemented. However, a follow-up review by the OIG determined that the agreed-to clause had not been included in a \$32 million (ceiling value) logistics support contract awarded by OARM to support a region's needs during emergencies. OARM reported that the clause has been written and is in the final stages of review. The clause is on schedule to be inserted in the contract by May 30, 2009.

Recommendation 4-1 (Bullet 2): 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 providing a sufficient number of property specialists in the affected areas early during the crisis

Status: Same as for Recommendation 2-1.

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: OSWER reported that the Equipment Module is operational, and the regions and special teams are receiving training and adding their data into the system. OSWER expects full implementation by December 31, 2009. The agreed-to completion date was December 31, 2006.

Action Offices: 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 recommendations were issued to OSWER, OW, OECA, OA, and the Office of Research and Development. However, OSWER, OECA, OA, and the Office of Research and Development have no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

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 the Office of Research and Development to determine if a statistical design for collecting contaminated sediment data would be practical. After consultation, OW determined that the resources needed for designing and implementing a survey for sediments would exceed the resources available for the program. As an alternative, if the statistical design was determined to be impractical, OW agreed to work with the Office of Research and Development to develop a design that provides the best national assessment based on the available data. The agreed-to 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 has developed electronic transfer protocols that will allow other EPA offices, the National Oceanic and Atmospheric Administration, and States to enter contaminated sediment data into EPA's Water Quality Exchange that can be used for the

next NSQS. OW also developed, with OSWER funds, an approach for incorporating OSWER contaminated sediment data into Water Quality Exchange. Additionally, OW plans to hold a workshop on the design of the next NSQS when resources become available. The agreed-to 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 has consulted with Office of Research and Development 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. The analysis considered a representative literature compilation regarding the range of deposition and degradation rates in several watersheds. This will help OW to determine a reporting frequency based on science. The analysis was completed in November 2007.
2. OW obtained preliminary information on the needs of other EPA programs for the NSQS data and analysis. EPA expects that this issue will be a focus of discussions in the Contaminated Sediment Data Committee and at the proposed National Workshop. These discussions will enable OW to determine a reporting frequency based on the real needs of programs for this information.
3. From the two actions above, OW will be able to make a recommendation for an alternative reporting schedule.

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.

Unimplemented Recommendation

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: OSWER reported in MATS that Recommendation 2-3 is partially implemented. Two planned corrective actions addressed 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. This action is considered completed. OCFO is determining if the Agency's new centralized financial management system will solve the accounting definition issue. If not, OCFO may consider having system adjustments made. The new centralized system is planned to be operational by October 1, 2010.

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

We 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 Act's impact on EPA regarding children's health. We 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 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 agreed-to completion date was December 2006. OPP reports that it is 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 the 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 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 "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 determined that the actions taken and described did not meet the intent of Recommendation 4-1. The OIG did not approve the change and offered to meet to discuss other alternative actions.

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. On March 17, 2009, OECA requested an extension to the milestone date for this recommendation to November 30, 2010. The OIG decision is pending.

Action Office: OEI
Report Title: Security Configuration and Monitoring of EPA's Remote Access Methods Need Improvement
Report No.: 2005-P-00011 **Date Issued:** 03/22/05

Report Summary

Remote access is the connecting to EPA's data communications network from alternate locations not directly connected to the network. Two key methods of attaining remote access are through an Internet browser via Web-Mail or through a BlackBerry, which is a wireless handheld device. We found that system administrators did not configure EPA's Web-Mail and BlackBerry servers to provide secure remote access to the Agency's network and did not configure or update 59 percent of the Web-Mail and BlackBerry servers to mitigate vulnerabilities. We also found several of the Agency's BlackBerry devices were not adequately configured, secured, or monitored; devices that had no password enabled or had functionality that would allow users to disable passwords; and devices left unattended in workstation cubicles. Consequently, confidentiality and integrity of EPA data, as well as the availability of the network, was at risk of unintentional or intentional exploitation.

Unimplemented Recommendations

OEI previously reported in MATS that all corrective actions in response to the recommendations in this audit report were completed. However, due to recent follow-up work by the OIG, OEI has re-opened this audit and is implementing corrective actions in concert with the OIG's Office of Mission Systems. A formal corrective action plan is expected from OEI after the OIG's follow-up report is issued.

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

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

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 has stalled toward achieving the Clean Water Act goal of eliminating toxic discharges that can harm water quality.

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 adopting 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 migrating and retaining 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. The agreed-to completion date was September 2007.

Although OW reported that the schedule for the ICIS-NPDES has been delayed, EPA has meanwhile obtained input from State and Publicly Owned Treatment Works partners on a draft framework for a technical handbook describing environmental benefits achieved by implementation of the Pretreatment Program. EPA also participated in a roundtable discussion on Pretreatment Program performance measures with States and Publicly Owned Treatment Works.

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 3-2: We recommend that the Assistant Administrator for OECA accelerate the development of the Interim Data Exchange Format for the Permit Compliance System. 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 the Permit Compliance System. EPA is not investing any additional resources for flowing data to the Permit Compliance System, but is focusing on an improved process for batch flow into ICIS-NPDES. The policy was opposed by States. Therefore, OECA is pursuing a rule to require submission of the data by States. The agreed-to completion date was February/March 2002. On March 17, 2009, OECA requested extending the milestone date for this recommendation to November 30, 2010. The OIG decision is pending.

Recommendation 3-4: We recommend that the Assistant Administrator for OECA continue to report the Permit Compliance System 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 the Permit Compliance System as an Agency-level weakness. This weakness 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. The agreed-to completion date was for the end of Fiscal Year 2003. On March 17,

2009, OECA requested extending the milestone date for this recommendation to December 31, 2013. The OIG decision is pending.

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 depends on OW's progress in developing new whole effluent toxicity permit guidance. OW has deferred its 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. On March 17, 2009, OECA requested extending the milestone date for this recommendation to April 30, 2009. The OIG decision is pending.

OIG Reports with Unimplemented Recommendations by Program Office as of March 31, 2009

OAR

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

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

OCFO

08-P-0116, EPA Can Recover More Federal Superfund Money

OECA

08-P-0141, EPA Needs to Track Compliance with Superfund Cleanup Requirements

08-P-0116, EPA Can Recover More Federal Superfund Money

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-00030, Improved Management Practices Needed to Increase Use of Exchange Network

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

2005-P-00011, Security Configuration and Monitoring of EPA's Remote Access Methods Need Improvement

OA/OPEI

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-00013, EPA Can Better Manage Superfund Resources

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

Unimplemented Recommendations 10/31/08 Compendium Compared to Current Compendium

Continuing Unimplemented Recommendations

- 08-P-0093**, EPA Should Further Limit Use of Cost-Plus-Award-Fee Contracts (**Recommendations 2-1, 2-2**)
- 2007-P-00026**, EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups (**Recommendation 3-1**)
- 2007-P-00025**, EPA Can Improve Its Oversight of Audit Follow-up (**Recommendation 1**)
- 2007-P-00008**, EPA Could Improve Controls Over Mainframe System Software (**Recommendation 9**)
- 2007-P-00007**, EPA Could Improve Processes for Managing Contractor Systems and Reporting Incidents (**Recommendation 2-1**)
- 2006-P-00038**, Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist (**Recommendations 2-1, 4-1(bullet 5)**)
- 2006-P-00016**, EPA Can Better Implement Its Strategy for Managing Contaminated Sediments (**Recommendations 3-1, 3-2**)
- 2006-P-00013**, EPA Can Better Manage Superfund Resources (**Recommendation 2-3**)
- 2006-P-00009**, Opportunities to Improve Data Quality and Children's Health through the Food Quality Protection Act (**Recommendation 4-1**)
- 2006-P-00001**, Rulemaking on Solvent-Contaminated Industrial Wipes (**Recommendation 4-1**)
- 2005-P-00024**, Limited Knowledge of the Universe of Regulated Entities Impedes EPA's Ability to Demonstrate Changes in Regulatory Compliance (**Recommendation 2-4**)
- 2005-P-00010**, Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to Be Fully Realized (**Recommendations 2-1, 2-2, 2-3, 3-1**)
- 2004-P-00030**, EPA Needs to Reinforce Its National Pretreatment Program (**Recommendation 4-1**)
- 2001-P-00013**, State Enforcement of Clean Water Act Dischargers Can Be More Effective (**Recommendations 3-2, 3-4, 3-5**)

New Unimplemented Recommendations

- 08-P-0141**, EPA Needs to Track Compliance with Superfund Cleanup Requirements (**Recommendations 1, 5**)
- 08-P-0116**, EPA Can Recover More Federal Superfund Money (**Recommendations 2, 3**)
- 2007-P-00030**, Improved Management Practices Needed to Increase Use of Exchange Network (**Recommendations 2-2, 4-2, 5-1, 5-2**)

Compendium of Unimplemented Recommendations as of March 31, 2009
(Report No. 09-N-0148)

2006-P-00038, Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist (**Recommendations 3-2, 4-1(bullet 2)**)

2005-P-00011, Security Configuration and Monitoring of EPA's Remote Access Methods Need Improvement (**OIG currently conducting follow-up audit**)

Removed Unimplemented Recommendations

08-1-0032, Audit of EPA's Fiscal 2007 and 2006 (Restated) Consolidated Financial Statements (**Recommendations 29, 30**)

2007-P-00035, EPA Needs to Strengthen Its Privacy Program Management Controls (**Recommendation 5**)

2007-P-00028, ENERGY STAR Program Can Strengthen Controls Protecting the Integrity of the Label (**Recommendation 3-1**)

2007-P-00026, EPA Needs to Take More Action in Implementing Alternative Approaches to Superfund Cleanups (**Recommendations 2-2, 3-2**)

2007-P-00013, Performance Track Could Improve Program Design and Management to Ensure Value (**Recommendation 3-4**)

2007-P-00008, EPA Could Improve Controls Over Mainframe System Software (**Recommendations 3, 5**)

2006-P-00027, EPA Could Improve Its Redistribution of Superfund Payments to Specific Sites (**Recommendations 1, 4, 5, 6**)

2006-P-00016, EPA Can Better Implement Its Strategy for Managing Contaminated Sediments (**Recommendation 2-4**)

2006-P-00013, EPA Can Better Manage Superfund Resources (**Recommendation 2-5**)

2004-P-00030, EPA Needs to Reinforce Its National Pretreatment Program (**Recommendation 4-3**)

2003-P-00012, EPA's Response to the World Trade Center Collapse: Challenges, Successes, and Areas for Improvement (**Incorrectly closed out in MATS**)

2001-P-00013, State Enforcement of Clean Water Act Dischargers Can Be More Effective (**Recommendation 3-1**)