



OIG
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

EPA Region 6 Needs to Improve Oversight of Louisiana's Environmental Programs

Report No. 2003-P-00005

February 3, 2003

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Abbreviations

AIRS: Aerometric Information and Retrieval System
EPA: U.S. Environmental Protection Agency
NPDES: National Pollutant Discharge Elimination System
OIG: Office of Inspector General
RCRA: Resource Conservation and Recovery Act



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

OFFICE OF
INSPECTOR GENERAL

February 3, 2003

MEMORANDUM

SUBJECT: Final Report: 2003-P-00005
EPA Region 6 Needs to Improve Oversight
of Louisiana's Environmental Programs

FROM: Michael A. Rickey
Director for Assistance Agreement Audits

A handwritten signature in black ink that reads "Michael A. Rickey".

TO: Lawrence E. Starfield
Acting Regional Administrator
Region 6

Attached is our report entitled *EPA Region 6 Needs to Improve Oversight of Louisiana's Environmental Programs*, conducted as a result of the Region's request. We discussed our findings with your staff and issued a draft report. We summarized your comments in the attached final report and included your complete response in Appendix B.

ACTION REQUIRED

In accordance with EPA Order 2750, you, as the action official, are required to provide this office with a written response within 90 calendar days of the final report date. For corrective actions planned but not completed by the response date, reference to specific milestone dates will assist us in deciding whether to close this report. Please e-mail an electronic version of your response to holthaus.randy@epa.gov.

We have no objection to the public release of this report. This final audit report contains findings that the Office of Inspector General (OIG) has identified and corrective actions OIG recommends. This audit report represents the opinion of OIG and the findings contained in this report do not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established EPA audit resolution procedures.

If you or your staff have any questions about this report, please contact me at (312) 886-3037, or Randy Holthaus, Project Manager, at (214) 665-6620.

Attachment

Executive Summary

Purpose

The U.S. Environmental Protection Agency (EPA) often authorizes states to carry out federal environmental programs on its behalf. EPA's oversight of the states' implementation of such programs is critical to ensure that states are meeting federal requirements and achieving environmental results.

From October 2001 to March 2002, EPA Region 6 received petitions from Louisiana citizens groups requesting that EPA withdraw three programs from the Louisiana Department of Environmental Quality (Louisiana): the National Pollutant Discharge Elimination System (NPDES) water program; the Resource Conservation and Recovery Act (RCRA) hazardous waste program; and the Title V air permit program. The petitions asserted that Louisiana was not properly implementing these programs, which EPA had authorized them to carry out. Our specific audit objectives were to answer the following questions:

- C Is EPA Region 6's level of oversight sufficient to determine whether the State's NPDES, RCRA, and Title V programs are effective?
- C How does EPA Region 6 know whether its oversight of the NPDES, RCRA, and Title V programs is successful?

Results in Brief

EPA Region 6's oversight was insufficient and could not assure the public that Louisiana was protecting the environment because Region 6 leadership: (1) did not develop and clearly communicate a vision and measurable goals for its oversight of the State or emphasize the importance of consistently conducting oversight, (2) did not hold Louisiana accountable for meeting goals and commitments, and (3) did not ensure that data of poor quality was corrected so that it could be relied upon to make sound decisions. As a result, the working relationship between the Region and Louisiana was not cohesive, and the Region was unable to fully assure the public that Louisiana was operating programs in a way that effectively protects human health and the environment.

Region 6 could not determine whether its oversight of the NPDES, RCRA, and Title V programs was successful because leadership had not defined what constitutes a successful oversight program, and had not identified the means for measuring the value of its oversight and linked that to environmental outcomes. Region 6 also did not conduct independent evaluations to assess the effectiveness

of its oversight. Effective oversight should enable EPA to proactively identify problems with state programs and help Louisiana improve its environmental programs to protect human health and the environment.

Recommendations

We recommend that the EPA Region 6 Administrator take various corrective actions to improve Regional oversight of Louisiana. Included among those actions is developing and communicating a clear vision and measurable goals for oversight, holding Louisiana accountable for the results of its programs through stronger grant commitments, and working with the State to identify and correct inaccuracies in key databases. We also recommend the Region develop and implement a systematic process to gather and evaluate feedback from its state partners, and conduct independent evaluations of oversight. Although our audit focused only on the Region's oversight of Louisiana, Region 6 may improve the oversight of all its states by implementing these recommendations.

Agency Comments and OIG Evaluation

The Region disagreed with some aspects of our findings, and did not clearly indicate whether it agreed or disagreed with our recommendations. Therefore, we are requesting the Region to provide more specific responses within 90 days. During an exit conference, Regional managers told us they were pursuing new ways to improve their oversight of state programs, such as by developing agreements noting commitments and agreed-upon consequences that would be enforced by EPA if commitments were not met. The Region also indicated the report unfairly criticized them for failing to implement outcome-based environmental measures, since the Agency as a whole has been unable to do so. While we acknowledge that is the case, the Region needs to focus on achieving environmental outcomes when developing its oversight vision and goals.

The Region provided comments and additional documentation to clarify portions of the report, and we incorporated that information as appropriate. At the end of Chapters 2 and 3 we summarized the Region's comments, and then provided our evaluation of those comments. The full text of the Region's response is in Appendix B.

Table of Contents

Executive Summary	i
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Chapters

1	Introduction	1
	Purpose	1
	Background	1
	Scope and Methodology	2
2	Region 6 Oversight Was Insufficient and Could Not Assure the Public That Louisiana Was Protecting the Environment	3
	Region Leadership Did Not Develop a Clear Vision and Goals for Oversight	3
	Region Leadership Did Not Hold Louisiana Accountable	7
	Region Leadership Did Not Ensure That Data Was Reliable	9
	Conclusion	11
	Recommendations	12
	Agency Comments	12
	OIG Evaluation	13
3	Value of Region 6's Oversight Was Uncertain	15
	Region 6 Management Has Not Defined Successful Oversight	15
	Region Did Not Have Sufficient Measures for Oversight	16
	Region Has Not Independently Assessed Oversight Processes	17
	Conclusion	18
	Recommendations	18
	Agency Comments	19
	OIG Evaluation	19

Appendices

A	Details on Scope, Methodology, and Prior Audit Coverage	21
B	EPA Region 6 Response	23
C	Distribution	49

Chapter 1

Introduction

Purpose

Region 6 of the U.S. Environmental Protection Agency (EPA) recently received several petitions asserting that the Louisiana Department of Environmental Quality (Louisiana) was not properly implementing several programs that EPA had authorized it to carry out. Specifically, in October 2001, Region 6 received a petition from the Tulane Environmental Law Clinic requesting EPA to withdraw Louisiana's authority to implement the National Pollutant Discharge Elimination System (NPDES) water program. In March 2002, the New Sarpy Concerned Citizens group petitioned Region 6 to withdraw from Louisiana the Resource Conservation and Recovery Act (RCRA) program for hazardous waste and the Title V air permit program.

Due to the petitions, the Region 6 Regional Administrator asked the Office of Inspector General (OIG) to review how Region 6 oversees Louisiana's implementation of the permitting and enforcement functions of the three programs. Our specific audit objectives were to answer the following questions:

- Is Region 6's level of oversight sufficient to determine whether the State's NPDES, RCRA, and Title V programs are effective?
- How does Region 6 know whether its oversight of the NPDES, RCRA, and Title V programs is successful?

Background

EPA often authorizes states to carry out federal environmental programs on its behalf. EPA's oversight of the states' implementation of such programs is critical to ensure that states are meeting federal requirements and achieving environmental results. Sound federal oversight must include: (1) clearly defining and communicating to Agency employees a vision and measurable goals for oversight, (2) including results oriented goals and measures in state agreements, (3) monitoring and measuring results, (4) working with states to help achieve results, and (5) holding responsible parties accountable for results. If environmental results are not achieved, federal agencies may need to take strong actions to ensure results.

Region 6 has authorized Louisiana to carry out the following programs:

Program	Authorization Date	Intent of Program
NPDES	August 27, 1996	To regulate the discharge of pollutants into waterbodies.
Title V	October 12, 1995	To require operating permits for every major source of a regulated air pollutant.
RCRA	February 7, 1985	To regulate hazardous waste from generation to disposal.

The following three Region 6 divisions are responsible for oversight related to these programs:

- **Water Quality Protection Division:** Oversees the NPDES permitting program.
- **Multimedia Planning and Permitting Division:** Oversees the RCRA and Title V permitting programs.
- **Compliance Assurance and Enforcement Division:** Oversees the enforcement functions for NPDES, RCRA, and Title V.

Scope and Methodology

We focused our work on Region 6's oversight of Louisiana as it related to the state's implementation of the NPDES, RCRA, and Title V programs from 1996 through August 2002. We did not review the performance of Louisiana in this audit. We performed our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We conducted our fieldwork from March 2002 to September 2002, primarily at Region 6 Headquarters in Dallas, Texas. In response to our draft report, issued November 1, 2002, Region 6 provided us with additional information, which we have incorporated into this report as appropriate. We also interviewed Louisiana officials in Baton Rouge, Louisiana. See Appendix 1 for details on the scope and methodology, as well as prior audit coverage.

Chapter 2

Region 6 Oversight Was Insufficient and Could Not Assure the Public That Louisiana Was Protecting the Environment

EPA Region 6's oversight must improve to ensure Louisiana's implementation of the NPDES, RCRA, and Title V permitting and enforcement programs is effective. While Region 6 conducted varying levels of oversight of Louisiana's activities, the oversight was insufficient because the Region 6 leadership:

- Did not develop a clear vision and goals for oversight.
- Did not hold Louisiana accountable for meeting goals and commitments.
- Did not ensure that data of poor quality was corrected so it could be used to make sound decisions.

As a result, the working relationship between Region 6 and Louisiana lacked the cohesiveness needed to fully address complex environmental and human health issues. Further, Region 6 was unable to fully assure the public that Louisiana was operating programs in a way that effectively protects human health and the environment.

Region Leadership Did Not Develop a Clear Vision and Goals for Oversight

Region 6 leadership did not have an overall plan for conducting oversight of federal environmental programs authorized to states. Such oversight should help both EPA Region 6 staff and authorized states carry out programs effectively. EPA's oversight is critical, and should include clearly defining what is expected, monitoring and measuring results, working with states to help achieve environmental results, and holding responsible parties accountable for results. If environmental results are not achieved, federal agencies may need to take strong actions to ensure results.

Although the three programs addressed different media (air, water, and hazardous waste) and had different levels of funding, the goals of oversight should remain consistent. Because Region 6 did not operate with common oversight goals, Regional offices and staff had different understandings of what oversight was and should accomplish. We found these differences:

- Within Region 6 divisions.
- Between Region 6 divisions.
- Between Region 6 and EPA Headquarters.

As a result, Louisiana officials expressed concern with the inconsistent ways that Region 6 conducts oversight. Louisiana officials stated that the Region's process exhibited an "overall lack of quality control and quality assurance," and "significant variation(s) in guidance interpretation from one Region 6 staff to the next." For example, a Louisiana official noted that Region 6 staff have sometimes established new policies for Louisiana rather than implementing policies that Region 6 managers had or should have created. Oversight inconsistency between divisions is heightened when staff are permitted to establish policy.

The Agency has strategic goals and objectives for clean water, land, and air. Oversight of states is key because EPA relies upon states to achieve the Agency's strategic goals. Inconsistency creates confusion and reduces the effectiveness of EPA's oversight. The Agency's strategic goals for clean water, land, and air need to be translated into an oversight goal that regional management and staff can use as a guide when dealing with states.

Inconsistencies Within Divisions

Within Region 6 there was inadequate communication between management and staff which resulted in inconsistent views of oversight responsibilities. For example:

- The Water Quality Protection Division Director¹ defined the vision and goals of oversight differently than his staff. The director stated that oversight should ensure state programs provide the highest possible protection of human health and the environment, and that EPA and the state determine the environmental goals of a program and cooperatively assess the best solutions to obtain those goals. However, Water Quality Protection Division oversight team members stated that there were few environmental outcomes that measured oversight success. Rather, the oversight team measured success by the number of permits Region 6 reviewed, the number of permits issued by Louisiana, the quality of the permits reviewed, and the permit program reviews conducted at the state.

¹ This director was in an "Acting" role from January 2001 to June 2002.

- The Compliance Assurance and Enforcement Division’s Branch Chief for Air Issues assigned oversight roles and responsibilities to the air oversight coordinator. The branch chief told us that the Region’s air oversight coordinator for Louisiana maintained all information regarding oversight issues and, more specifically, details regarding review of compliance certifications. However, when we spoke with the coordinator, he stated that he neither reviewed the certifications nor was aware he was responsible for reviewing certifications. He also did not know who in Region 6 or Louisiana was responsible.

Inconsistencies Between Divisions

Because Region 6’s leadership did not define and clearly communicate its oversight philosophy and set measurable goals for its oversight, Region 6 divisions were not consistent in the way they provided oversight. For example, the NPDES permitting oversight team made semiannual visits to audit the NPDES program, whereas the Title V permitting staff had not made an on-site visit to the Louisiana Department of Environmental Quality to formally review the Title V program in almost 6 years.

The following table shows some differences in the ways that Region 6 divisions conducted oversight. We do not intend to suggest that all divisions should operate exactly the same, nor is the table a complete list of all oversight activities. Differences in oversight should be based on an overall plan or objective criteria.

Comparison of Selected Oversight Activities

Action	Multimedia Planning & Permitting Division		Water Quality Protection Division	Compliance Assurance & Enforcement Division
	Title V	RCRA	NPDES	Enforcement
Has a dedicated oversight team ²	No	No	Yes	Title V - No RCRA - No NPDES - No
Conducts on-site reviews regularly	No	No	Yes	Title V - No RCRA - No NPDES - Yes
Verifies data systems	No	In process ³	Yes	Title V - No RCRA - No NPDES - Yes
Reviews proposed permits	Some (about 10%)	Some ⁴	All "majors," Some "minors"	N/A

The inconsistencies are magnified given the different organizational structures of EPA and Louisiana. Louisiana is organized functionally. For example, one Louisiana division – its Permits Division – handles the permitting activities for *all* of its environmental programs. However, EPA is organized by media (such as air, water, and hazardous waste) and, therefore, its permitting activities are spread out among the Region’s divisions. Consequently, Louisiana’s Permits Division receives program assessments from three different EPA program offices. Further, Louisiana’s Permits Division has been visited by Region 6 NPDES oversight staff at least 9 times in the last 6 years but never by EPA Title V oversight staff until December 2002. Because Louisiana has the authority to structure its organization as it wishes, Region 6 will likely benefit by adjusting its own processes to use a more coordinated oversight approach.

Inconsistency Between Region 6 and EPA Headquarters

We noted inconsistency between EPA Headquarters’ guidance regarding oversight and the actions actually taken by Region 6 staff. For example, Region 6 has not followed EPA Office of Enforcement and Compliance Assurance

² As formally designated in the Region’s organization chart. While some Region 6 divisions may have assigned oversight tasks to individuals, those tasks were collateral duties and not their full-time job.

³ According to the Region, they verify data in RCRAInfo on the internet from their Dallas office.

⁴ The Region’s RCRA program reviews federal facility, combustion, and high priority permits.

guidance to review 100 percent of Title V facility compliance certifications because the Region believes it may not be necessary to review 100 percent to have an effective oversight program. Region 6 officials said they believe it is Louisiana's job to review the compliance certifications, although they did not know if that was happening. In December 2002, Region 6 stated that it had reviewed 170 certifications, although they were unable to provide documentation for that number. According to EPA headquarter's Office of Enforcement and Compliance Assurance, data in the Aerometric Information and Retrieval System (AIRS) as of December 14, 2002, showed that Region 6 had reviewed 6 of the 252 Louisiana Title V compliance certifications submitted (2 percent) and found 1 of the 6 facilities (17 percent) was out of compliance.⁵ We confirmed with a Louisiana enforcement official that Louisiana does not compare the certifications against permit limits to identify compliance problems. Moreover, the Louisiana Legislative Auditor's Office confirmed in its March 2002 report⁶ that Louisiana did not routinely compare permitted facilities' annual air emissions statements to permit requirements to determine whether facilities were in compliance. As a result, Title V facilities may be incorrectly reporting they are compliant.

In another case, because Region 6 staff have not followed Headquarters' 1998 guidance for conducting Title V fee audits, they were unaware as to whether Louisiana employees were charging personnel costs properly. The Office of Air and Radiation's National Program Guidance directs regions to perform Title V fee audits to verify the eligibility of Title V-related activities. During our work, Louisiana staff indicated that they may have been charging their Title V work efforts to other EPA air grant funds, although we were unable to confirm this. The Title V program is supposed to be totally funded from fees that facilities pay to obtain Title V air permits. Region 6 staff stated that they did not have any processes to determine whether Louisiana staff were improperly charging Title V work to EPA grant funds. The Region reviewed this issue in its December 2002 fee audit, but the Region does not expect to finalize its report until sometime in February 2003.

Region Leadership Did Not Hold Louisiana Accountable

Region 6 has not held Louisiana accountable for results. Regional officials did not place strong commitments in Performance Partnership Grants--the documents that provide the funding--or Performance Partnership Agreements (which spell out how the two organizations will work with each other and what is expected of

⁵ According to the Office of Enforcement and Compliance Assurance, as of December 14, 2002, the AIRS database showed that Region 6 had reviewed a total of 53 certifications (6.5 percent) out of a total of 815 submitted for all five of Region 6's states.

⁶ Performance Audit, Department of Environmental Quality, March 2002.

each). Further, Region 6 did not take action to ensure Louisiana implemented strong, viable NPDES, RCRA, or Title V programs. OIG reports (see Appendix 1) have identified areas where Louisiana has been unable to meet its goals and commitments. Further, the Louisiana Legislative Auditor reported significant and widespread problems with Louisiana's operations, including:

- There was a large backlog of permits to issue. Louisiana had not issued 38 percent of the remaining initial Title V air permits, or 66 percent of the NPDES permits it told Region 6 it would issue.⁷
- Louisiana did not know whether facilities were in compliance because self-monitoring reports were either not submitted by facilities or could not be located. Louisiana also did not routinely review self-monitoring reports to determine whether the reports identified violations. The Auditor found reports that showed violations of permitted limits for air and water.
- RCRAInfo – the EPA database into which states input information on hazardous waste facilities – contained many errors.

Despite all of the documented problems with the performance of Louisiana's environmental programs, we found no evidence that Region 6 escalated its oversight approach by placing conditions on grant funding, withholding funding, entering into consent agreements, or holding public fact finding hearings.

Agreement/Grant Documents Need More Meaningful Commitments

There were no commitments within the Performance Partnership Agreements or Grants that address the NPDES backlog, nor did EPA require Louisiana to issue NPDES permits in a manner and number that will reduce the backlog. Rather, the Region and the State made projections of what might be accomplished. The grants are annual agreements that help lay out goals and performance measurements. National guidance requires EPA to include these measures in the form of outputs in its agreements with states. Although Region 6 recognized that Louisiana was not issuing timely NPDES permits, it did not include a commitment on the part of the state to submit a backlog reduction plan in any grant documents. The Region only orally requested, as part of its 1998 end-of-year review, that Louisiana submit a plan for reducing the backlog. Although Louisiana did submit a plan in 2000, Region 6 officials said it is still incomplete and the Region has continued to ask for more information to complete the plan. Including these types of requirements in grant documents can be a valuable

⁷ Region 6 stated that as of September 30, 2002, Louisiana has reduced the backlog from 38 percent to 33 percent.

accountability mechanism. In addition, EPA has recently changed its regulations for continuing environmental grants to require regions and states to jointly evaluate program progress; this provides Region 6 with an additional tool for holding states accountable (see box).

The (State) and the Regional Administrator will develop a process for jointly evaluating and reporting progress and accomplishments under the (Performance Partnership Grant) work plan. A description of the evaluation process and a reporting schedule must be included in the work plan. . . . If the joint evaluation reveals that the recipient has not made sufficient progress under the work plan, the Regional Administrator and the recipient will negotiate a resolution that addresses the issues. If the issues cannot be resolved through negotiation, the Regional Administrator may take appropriate measures. . . .

~ Title 40 Code of Federal Regulations § 35.115

Region 6 also did not take actions to ensure Louisiana implemented strong, viable programs. For example, in the 1999 NPDES mid-year review, Region 6 asked Louisiana to prepare a plan of action, within 14 days of the review, for the issuance of 3 general permits that would regulate 16 facilities. EPA subsequently requested the plan in the next two semiannual reviews, meaning that the plan was over a year late. Region 6 staff stated that the plan was never developed nor the permits ever issued. As a result, the 16 facilities are operating and discharging into water bodies without a current permit.

EPA headquarters has recognized that the backlog of NPDES permits is a nationwide problem and has developed a corrective action plan. This issue was identified by EPA as a Federal Managers' Financial Integrity Act weakness in 1998. According to Region 6, it is concerned that the number of major and individual minor NPDES permits developed and issued by Louisiana since assuming the program in 1996 has been half, or less, of what is necessary to maintain the program. The Region also noted that about half of the major permits issued for the past fiscal year were drafted either by EPA or a contractor. Further, the number of individual minor permits issued dropped to about one-fourth of the amount needed to administer the program. Region 6 stated that it has worked with Louisiana to correct the NPDES backlog problem, and to ensure that Louisiana implements measures to reach national backlog reduction goals. For example, the Region prepared about 20 major permits during fiscal year 2002 for Louisiana to assist in reducing its backlog. The Region has also worked with Louisiana to establish a contract through which a contractor will help draft permits for Louisiana to reduce the backlog.

Memorandum of Agreement Needs Updating

EPA and Louisiana are operating under an outdated and incomplete NPDES Memorandum of Agreement. The 1996 NPDES agreement has not been updated to include Louisiana's current organization. After Louisiana reorganized in 1998,

the divisions responsible for preparing and providing important documents, such as Clean Water Management Plans and the Continuing Planning Process, no longer exist. To hold Louisiana accountable, EPA needs to know how Louisiana is organized and who is responsible for key activities and results.

Region Leadership Did Not Ensure That Data Was Reliable

Region 6's oversight was insufficient because it did not ensure that Louisiana provided timely and accurate information to key databases, so sound decisions could be made about Louisiana's performance and effectiveness. Region 6 also did not determine the degree to which data was unreliable, even though they acknowledged the data was of poor quality. The EPA Inspector General notified the EPA Administrator in September 2002 that EPA faces a number of challenges with the data it uses to make decisions and monitor progress against environmental goals. EPA and most states often apply different data definitions, and collect and input different data, resulting in inconsistent, incomplete, and obsolete consolidated national data.

Significant data quality issues exist in the RCRA and air databases. Region 6 management in the RCRA program stated that they were aware of inaccurate historical information in its databases and did not rely upon it to make decisions. Instead, the Region stated it relied upon public notices, face-to-face communication, and close working relationships. Such methods of oversight are more subjective in evaluating Louisiana's program performance and effectiveness than relying on solid, verifiable data. RCRA program staff also told us they knew that the RCRAInfo database was inaccurate but had not yet taken strong action to ensure Louisiana corrects inaccuracies. In 1996, OIG reported that the Aerometric Information and Retrieval System (AIRS) database, including Louisiana data, was inaccurate, inadequate, and untimely. However, Region 6 has not taken, or required Louisiana to take, action to correct the deficiencies. Inaccuracies were due, in part, to insufficient submissions by Louisiana, as well as Region 6 not validating the data.

RCRA grant documents require Louisiana to maintain RCRA data to provide a complete and accurate picture of program accomplishments. Region 6 performs RCRA reviews based on data that they do not verify through on-site file reviews. Region 6 staff admitted they were unsure of the usefulness of the data, yet in some cases they relied on it for oversight purposes. Region 6 RCRA enforcement staff had not been on-site at Louisiana to verify data since a 1998 multimedia audit. The RCRA permitting program manager stated they are in the process of establishing a State Program Section to be the primary lead for coordinating and conducting oversight of each state's permit and corrective action programs.

The 2002/2003 Memorandum of Agreement between Region 6 and EPA's Office of Enforcement and Compliance Assurance states that Region 6 should ensure that all necessary information is entered into the appropriate data systems. Region 6 has relied on the data in AIRS, even though personnel acknowledged it is inaccurate. Region 6 has not tried to determine how inaccurate the data is, and until July 2002, Region 6 had not compared the data in the system to actual documents.

Conclusion

Region 6 leadership did not have an overall vision for oversight. Also, the Region did not hold Louisiana accountable for results, and did not ensure that key data submitted by Louisiana was correct. Although the oversight of each program and enforcement element may present a variety of issues that require unique solutions, the overall goal or vision of the oversight process should remain constant. Along with having a clear and consistent goal, Region 6 should hold the state accountable for results. Further, since much of Region 6's oversight work is done by reviewing national databases, the Region should take steps to ensure that data is accurate. As the Deputy Administrator's Steering Group concluded in its November 2002 report entitled *Managing for Improved Results*, there is often a disconnect between the quality of the Agency's performance measures and their supporting data. Recognizing this, the Steering Group recommended that managers ensure that data of adequate quality be made available to support the objectives reflected in the Agency's Strategic Plan.

Region 6 did not require Louisiana to meet commitments to reduce the NPDES backlog. Rather, the Region and the State made projections of what might be accomplished. Commitments involve a pledge of trust or an obligation to accomplish something, and consequences for not doing so are implied. Projections are merely estimates of possible future events based on trends. We believe that the Performance Partnership Grants contained projections, not commitments, and the Region should have done a better job to ensure Louisiana did its job to reduce the backlog. In its November 2002 report entitled *Managing for Improved Results*, the Deputy Administrator's Steering Group concluded that mutual accountability must exist to achieve results. All government players in environmental protection have responsibilities that must be met and each entity should be accountable to the others for meeting its commitments.

EPA and states, in general, have been unable to agree on state flexibility and accountability issues. State/EPA relations remain strained due to disagreements over: (1) respective roles and the extent of federal oversight; (2) priorities and budgets; and (3) results-oriented performance measures, milestones, and data. A

series of OIG audits identified that weaknesses in this area were due, in part, to a lack of leadership in providing a clear direction and expectations, and a lack of goals and related performance measures.

Region 6 must help Louisiana gain the trust of the public. The recent petitions by Louisiana citizens groups indicate a need to restore trust. To help restore that trust will take a coordinated effort by Region 6, but we believe it is essential.

Recommendations

We recommend that the Region 6 Administrator:

- 2-1. Develop a clear vision for, and definition of, oversight and clearly communicate that to staff.
- 2-2. Work with the Office of Enforcement and Compliance Assurance to reach agreement over the level of review of Title V compliance certifications needed to provide effective oversight.
- 2-3. Determine whether Louisiana is properly charging its Title V work activities, and establish procedures to ensure that Louisiana's future work efforts are charged appropriately to EPA grants.
- 2-4. Hold Louisiana accountable for results through stronger grant commitments, including, but not limited to, placing special conditions on grants and, if necessary, withholding of funds.
- 2-5. Update the 1996 NPDES Memorandum of Agreement to accurately reflect the current organization, roles, and responsibilities of both Region 6 and Louisiana, and update other Memoranda of Agreement or Understanding as needed.
- 2-6. Work with Louisiana to validate data in AIRS, RCRAInfo, and the Permit Compliance System and correct inaccuracies.

Agency Comments

The Region made several general comments about the report. First, it stated that the report was not specific enough in terms of which specific program the findings applied to. Also, there are good reasons for differences in oversight between permitting programs and the lack of uniformity does not mean oversight is inappropriate or ineffective. Further, the Region stated that effectiveness of a state program is not simply a matter of oversight of program activities. Besides a permitting program, an effective state water quality protection program comprises

many elements including the development of adequate water quality criteria and standards, comprehensive monitoring and assessment, and an effective enforcement program. Finally, according to the Region, the report failed to recognize all of the steps the Region has taken to improve the Louisiana programs. See attachment 3 of Appendix 2 for the list the Region provided to us.

The Region agreed with most of our recommendations, except for withholding grant funds for failing programs (Recommendation 2-4). Regarding Recommendation 2-4, the Region believes that withholding funds from failing programs leads to poorer performance. The Region prefers to use part of the state allocation to obtain contractor support to assist states in conducting their programs.

OIG Evaluation

This report intentionally draws more global, rather than program specific, conclusions regarding Regional oversight. We used specific examples to illustrate the overall findings. Although the report dealt with three different programs, we believe that the Region's oversight vision and goals should be driven from the top of the organization and cover all programs. While we agree that the Region has made some progress, some of those actions have been taken since the citizen petitions were filed and our audit began. The Region should continue to perform new and different oversight techniques if previously used techniques are not achieving results.

As noted above, the Region agreed with most of our recommendations, except for withholding grant funds for failing programs. Although we agree that using outside contracts to assist states should help states meet commitments, we continue to believe that withholding funds from poorly performing states should be considered in some cases. EPA has a fiduciary responsibility to ensure that federal funds are spent appropriately and toward the achievement of environmental goals. To continue to fund poorly performing programs wastes valuable resources. EPA has an obligation to include the withholding of funds in its array of accountability tools.

In responding to the final report, the Region needs to provide an action plan with milestone dates for implementing each recommendation. For any recommendation the Region does not agree with, it needs to provide the basis of the disagreement and sufficient information to assist the OIG in resolving the issue.

Chapter 3

Value of Region 6's Oversight Was Uncertain

The Region's leadership had not defined what constitutes a successful oversight program, and had not identified the means for measuring the value of its oversight and linked that to environmental outcomes. Region 6 also did not conduct independent evaluations to assess the effectiveness of its oversight. As a result, the value of Region 6's oversight was uncertain. Effective oversight should enable EPA to proactively identify problems with state programs and help Louisiana improve its environmental programs to adequately protect human health and the environment.

Region 6 Management Has Not Defined Successful Oversight

Regional management had not defined what constitutes a successful oversight program. As a result, staff did not understand Region 6's oversight goals or their own oversight expectations, nor did they clearly understand management's oversight values and expectations. Without a clear definition of oversight, Region 6 cannot clearly measure the value of its oversight.

The Deputy Regional Administrator gave us a memo (see box), dated June 26, 2000, indicating Region 6's intent to strengthen its partnership with Louisiana. However, we did not observe any specific actions Region 6 had taken to determine whether the intent and spirit of the memo was implemented. Region 6 management has not given a clear directive of what oversight consists of, and management has not guided its staff in developing an oversight measurement tool. The Deputy said that Region 6 is moving toward more environmental indicators, but did not identify any directly related to oversight.

“. . . as Agency leaders, we establish the tone and priorities within our organizations. . . . Attaining a cooperative relationship is an evolutionary process which requires the continued involvement of senior management and stepwise execution of specific relationship building tasks. We believe the commitment to the cooperative relationship will be essential for the long term success of our organizations. . . .”
– From June 2000 Memo prepared by EPA Region 6 and Louisiana for their staffs

Because Regional management has not clearly defined oversight, the three Division Directors had varying views of the goal of oversight:

- Region 6’s former Water Quality Protection Division Director stated oversight should ensure that programs operate properly and result in the highest protection for human health and the environment. He acknowledged that Region 6 should share some responsibility for the performance of its states, such as Louisiana.
- Region 6’s Multimedia Planning and Permitting Division Director stated that he personally “established the policies for oversight” in the RCRA and Title V programs. He said that oversight can vary depending on the circumstances, and agreed Louisiana needs to address outcomes rather than merely write the number of permits called for in workplans (outputs).
- Region 6’s Compliance Assurance and Enforcement Division Director defined oversight as providing assurance that the state operated a program as intended while doing so in a partnership environment (“trust but verify”). He noted that counting the number of permits issued, the number and amount of penalties assessed, and the amount of penalties collected are examples of tasks that the Region performs to assure itself that Louisiana is operating programs properly. He also said that it is the Region’s responsibility to encourage the state to do a better job if the numbers show they are not performing well. He also said poorly performing programs could be withdrawn without withdrawing the partnership with the state.

Region Did Not Have Sufficient Measures for Oversight

Region 6 was unsure of the value of its oversight efforts because Region officials had not established goals, outcome measures, and processes for evaluating effectiveness. Moreover, Region 6 did not consider Louisiana’s success or failure as a measure of the Region’s overall oversight effectiveness. In general, Region 6 did not focus its attention on environmental outcomes (actual improvements to the environment) as indicators of success, but rather focused on outputs (specific tasks performed). While measuring outputs is important, the Government Performance and Results Act requires that EPA ensure environmental programs result in outcomes that actually improve human health and the environment (see box).

“ ‘Managing for results’ is an approach to our work that can help us increase our focus on outcomes – actual environmental results such as cleaner air – rather than on more process-oriented ‘outputs’ such as numbers of permits written.”
 –EPA Chief Financial Officer’s website:
<http://www.epa.gov/ocfo/planning/gpra.htm>

Region Could Not Measure Effectiveness of Oversight

Region 6 could not determine whether it was using resources wisely and achieving program results because it did not measure outcomes, as required by the Government Performance and Results Act. Rather, Region 6 used output measures, such as numbers of permits reviewed. For example:

- The Water Quality Protection Division said it conducts many oversight activities. However, it was unable to cite any outcome measures that it uses to evaluate the success of its oversight efforts for Louisiana’s NPDES program. For example, the NPDES oversight team leader highlighted that Region 6 objects to more permits than any other EPA region, but could not determine how that contributed to improved environmental outcomes.
- Regional RCRA managers said they did not have a formal process to evaluate the effectiveness of their oversight. Region 6’s RCRA permitting manager also said Region 6 currently has no real way to measure ecological and human health impacts; they evaluate RCRA oversight by counting activities, and consider themselves successful if they do not receive citizen complaints or outside criticisms. Further, Region 6 believes its oversight has been successful if Louisiana performs more tasks or takes on increased program responsibility. Although Region 6 lists RCRA outcome measures in its Performance Partnership Grant with Louisiana, it does not relate the achievement of these outcomes to the success or failure of its oversight.
- Region 6’s air enforcement coordinator for Louisiana told us he was not sure whether his oversight is successful because no one has told him how to identify success. He guessed that it was likely based on the comments he made in mid- and end-of-year reviews – if he found issues, the oversight was successful. Although Region 6 air and enforcement officials acknowledged the need to improve the effectiveness of their oversight, they had not established oversight evaluation measures.

Region Has Not Independently Assessed Oversight Processes

Region 6 does not know the value of, or how it can improve, its oversight efforts because it did not evaluate the effectiveness of its oversight activities. Region 6 does not have a formal process to plan, execute, evaluate, and revise

“In managing for results, we...measure our progress to see if our programs are really working to accomplish what we intended, and make adjustments to improve our performance.”
– EPA Chief Financial Officer’s website:
<http://www.epa.gov/ocfo/planning/gpra.htm>

its oversight efforts, as recommended by EPA's Chief Financial Officer (see box). Region 6 has not conducted an independent formal survey of its partner – Louisiana – to obtain feedback. Further, Region 6 divisions have not “peer reviewed” each other's oversight (one division conducting a review of another division) to identify strengths and weaknesses. Region 6 has not identified oversight as a weakness in its annual Federal Managers' Financial Integrity Act reviews.

Conclusion

Regional management did not clearly define oversight or relate its oversight function to the achievement of Government Performance and Results Act goals. Regional management has not defined what constitutes a successful oversight program or ensured that staff understand goals and performance expectations. Without a clear definition of oversight, Region 6 will continue to be inconsistent in its oversight of Louisiana and be unable to evaluate the success or failure of its oversight or identify the benefit it provides. Because many environmental achievements are accomplished by states, federal oversight of state programs should be an integral part of Region 6's approach to managing for environmental results. Without assessing how it can improve its oversight and, therefore, Louisiana's program, Region 6 is not making the most effective and efficient use of its resources.

Clear and strong leadership is needed to ensure that managers work together to help staff understand how the work they do supports the Agency's long term goals. In its November 2002 report entitled *Managing for Improved Results*, the Deputy Administrator's Steering Group concluded that senior leaders must work together as a team and be held uniformly accountable for achieving environmental results. Further, the report states that staff and managers must work efficiently and understand how their work and their programs fit into the Agency's long-term strategic environmental goals.

Recommendations

We recommend that the EPA Region 6 Administrator:

- 3-1. Develop measurements of oversight success that emphasize outcomes versus outputs.
- 3-2. Develop and implement a systematic process to gather and evaluate feedback from Louisiana staff as well as managers, and use the feedback to make adjustments to the oversight process.
- 3-3. Conduct independent evaluations of oversight effectiveness of each of its

programs and make necessary improvements and incorporate identified strengths into other programs.

Agency Comments

The Region stated that the divisions do have a common oversight goal—the Agency’s strategic goals for clean air and water, among others. These goals provide the guiding principles underlying the oversight of all state environmental programs, not just those that have been delegated. The Region also stated that the report unfairly criticizes the Region for an oversight program that focuses on outputs rather than outcomes. The Agency as a whole is presently working hard to develop more outcome-related measures as indicators of program success, but until those measures are developed and the Agency has the data to measure the accomplishment of them, it is unrealistic to implement them at the Regional level.

Regarding the recommendations, the Region provided the following comments:

- 3-1: The Region stated that it is working with Headquarters to develop outcome based performance measures.
- 3-2: The Region believes it has already implemented this recommendation. The Region cited various activities it performs, including speaking with first line Louisiana managers regularly, holding conference calls between Region 6 management and Louisiana management, and holding an annual manager meeting to discuss issues.
- 3-3: The Region stated that it will explore other ways to constructively improve its programs.

OIG Evaluation

We do not believe the Region operated with a common oversight goal. Each division had a different philosophy of what oversight was to accomplish. Regarding the need to develop environmental outcome measures, we acknowledge that the Agency, as a whole, is behind in its accomplishment of this important goal. We also agree that national program offices will need to take an active role in helping the regions develop outcome measures.

Our evaluation of the Region’s comments on the recommendations follows:

Regarding the development of outcomes (Recommendation 3-1) and evaluation of the oversight process (Recommendation 3-3), Region 6 appears to agree that improvements are needed. However, the Region’s response lacks specificity as to what will be done and when. The Deputy Administrator, in the report *Managing*

for Improved Results, also highlighted the importance of measuring outcomes and evaluating processes:

- C The Agency needs to develop and use environmental indicators to demonstrate progress toward achieving long-term or intermediate outcomes...it is important to focus more on outcomes in order to track its performance under the Government Performance and Results Act.
- C The use of performance information in a “feedback loop” is one of the most critical components of the Agency’s effort to improve the way it manages for results. Further, performance information, including results from program evaluations, must provide the basis for EPA’s accountability processes. The report recommended that managers conduct more program evaluations to help determine program effectiveness and progress toward results. The report was clear to point out that program evaluations are not program reviews.

In responding to the final report, Region 6 needs to provide specific actions, with milestone dates, for implementing the recommendations and addressing the finding in this chapter.

As for implementing a systematic process to gather and evaluate feedback from Louisiana staff on the oversight process (Recommendation 3-2), Region 6 disagreed that additional actions were needed. While we acknowledge that the Region does gather feedback from the State, we continue to believe the Region should have a more structured process. A systematic process would allow the Region to (1) obtain information on specific structured questions, (2) analyze and aggregate responses received, (3) develop plans for corrective actions, and (4) create a documented record to evaluate whether actions taken actually were successful.

Details on Scope, Methodology, and Prior Audit Coverage

Scope and Methodology

We conducted our audit fieldwork at EPA Region 6 Headquarters in Dallas, Texas; and at the Louisiana Department of Environmental Quality in Baton Rouge, Louisiana. We limited our review to the performance of Region 6 oversight of the three programs cited in the petitions – NPDES, RCRA, and Title V. We interviewed Region 6 managers, including the Deputy Regional Administrator, as well as the Division Directors for the divisions responsible for oversight of the permitting and enforcement functions within the three programs: Water Quality Protection Division; Multimedia Planning and Permitting Division; and Compliance Assurance and Enforcement Division. We also interviewed Region 6 staff responsible for conducting oversight of Louisiana within those divisions, and interviewed Louisiana managers and staff.

We reviewed the Region’s mid-year and end-of-year assessments of Louisiana for the three programs going back to 1996. We reviewed the Memoranda of Understanding between EPA Headquarters and Region 6 as well as the Memoranda of Agreement between Region 6 and Louisiana. We reviewed the performance measures identified in the Performance Partnership Agreements between EPA Region 6 and Louisiana.

We also obtained information and analyzed data from the following EPA databases, but did not validate the data:

- C Permit Compliance System (for NPDES)
- C RCRAInfo (for RCRA)
- C AIRS (for Title V)

We interviewed staff from the following EPA Headquarters offices in Washington, D.C., responsible for NPDES, RCRA, and Title V issues:

- C Office of Water
- C Office of Solid Waste and Emergency Response
- C Office of Air and Radiation’s Office of Air Quality Planning and Standards
- C Office of Enforcement and Compliance Assurance’s Office of Compliance and its Office of Regulatory Enforcement.

We also reviewed oversight guidance that headquarters offices provided to the regions.

We conducted our audit fieldwork from March 2002 to September 2002. We performed the audit in accordance with the *Government Auditing Standards*, issued by the Comptroller General of the United States, as they apply to program audits.

Prior Audit Coverage

OIG Report No. 2002-P-00011, *Public Participation in Louisiana's Air Permitting Program and EPA Oversight* (issued August 7, 2002): This report noted that Region 6 oversight of Louisiana's Title V air permitting program needed improvement, especially as it related to reviewing permits for public participation issues.

OIG Report No. 2002-P-00008, *EPA and State Progress In Issuing Title V Permits* (issued March 29, 2002): This report noted that permit issuance has been delayed among states, and that EPA did not provide adequate oversight and technical assistance to state and local Title V programs or use sanctions provided in the Clean Air Act to foster more timely issuance of Title V permits.

OIG Report No. 6100309, *Region 6's Enforcement and Compliance Assurance Program* (September 26, 1996): This report included a review of air enforcement activities in Louisiana, and found that the data that Louisiana entered into AIRS was incomplete, inconsistent, and untimely.

Louisiana Office of the Legislative Auditor Report, *Performance Audit: Department of Environmental Quality* (issued March 2002): This report, on all of the Louisiana Department of Environmental Quality's programs (air, water, solid waste, and hazardous waste), found widespread problems in all of the programs reviewed. For example, Louisiana had not issued 38 percent of the initial Title V air permits, and had not issued 66 percent of the water permits it had told EPA it would issue. Also, 54 percent of hazardous waste units in the state were operating under expired permits. Louisiana also did not issue enforcement actions for 31 percent of inspection violations for water. Further, 26 percent of self-monitoring reports for water and 22 percent for air were either never submitted to Louisiana by facilities or could not be located.

EPA Region 6 Response



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

December 17, 2002

MEMORANDUM

SUBJECT: Draft Audit Report - EPA Region 6 Oversight of Louisiana's Environmental Program Needs Improvement Assignment No. 2002-0695-xxxxx

FROM: Lawrence E. Starfield
Deputy Regional Administrator (6RA-D)

TO: Michael Rickey, Director
Audits Assistance Agreements (2421T)

We received your Draft Report dated November 1, 2002, for the above-mentioned audit. Our Regional response addresses the factual accuracy of the report and whether or not we concur with the findings and proposed recommendations. General comments are provided in Attachment 1; more detailed comments on specific report facts and recommendations are provided in Attachment 2 of this memorandum and oversight-related activities are highlighted in Attachment 3. (We expect to have Attachments 2 and 3 completed and to you within 48 hours.)

Comments are provided to this Draft Report in an effort to clarify facts and generalizations stated herein. I appreciate the opportunity to comment and will look forward to reviewing your revised issuance of this report.

Attachments (3)

cc: Randy Holthaus, Project Manager
Office of Inspector General (6IG)

Comments on the Draft Audit Report
EPA Region 6 Oversight of Louisiana's Environmental
Program Needs Improvement
Assignment No. 2002-0695-xxxxx

Region 6 General Comments

The Office of Inspector General's Report provides the results of a review of EPA's oversight of several programs (NPDES, RCRA, and Title V) delegated to the State of Louisiana. The report makes some conclusions and recommendations that, when implemented, may lead to an improved oversight program in Region 6. Although the report contains many valid points, there are what we believe to be *numerous* generalized statements that we feel must be re-phrased, or be made more specific, in order to accurately portray EPA's oversight efforts for these programs. For example, your statement:

“The Region's oversight was insufficient because it:

- 1) did not operate with one consistent Regional oversight goal;
- 2) did not hold Louisiana accountable for meeting goals and commitments, and
- 3) relied on inaccurate data and data of unknown quality.”

is a very broad statement which is not substantiated in the specifics of the report, and does not make clear whether reference is to one, two, or all three programs under review. We are also concerned that discussions with senior managers were not sufficient to allow for a full understanding of the oversight program conducted by Region 6.

1. Findings need to identify the program to which they apply.

The section entitled “Inconsistencies Between Divisions” contains a table at page 5 that does not clearly or correctly illustrate the oversight that exists. Each program does, in fact, conduct oversight, although the process by which oversight is conducted can vary. Since many comments do not reference a particular program, they mislead the reader; each statement of finding should identify the programs to which the finding applies.

2. Good reasons exist for some differences in oversight between permitting programs in the three media areas.

First, the regulatory requirements, as well as policy guidance, are unique in the three programs, leading to differences in oversight. (For instance, the Report criticized EPA's failure to take stronger action in response to the State's failure to issue several water permits. It is important to note that EPA is not allowed by regulations to object to a draft NPDES permit that has not been proposed (see 40 CFR 122.2).)

Secondly, the priorities for oversight in one particular State may be higher or lower, depending upon priorities for attention to a similar program in another State. Resource constraints and management judgement also result in differences in the timing and manner of oversight.

3. Effective oversight must allow for program-specific variations.

There is admittedly a lack of uniformity in the oversight of the three media programs delegated to LDEQ, but this does not mean oversight is inappropriate or ineffective. Region 6 programs have held monthly conference calls, midyear and end-of-year reviews, and management meetings. In some cases, such as the air program, on-site reviews occur on an alternating schedule each year for all the Region 6 States. Nevertheless, reviews are still effectively accomplished by other communication mechanisms for midyear and end-of-year reviews. Similarly, on site Director meetings have been held to discuss and agree upon oversight review site visits and agreement upon priorities over the fiscal year; however, those consolidated meetings do not necessarily result in identical timeframes for oversight in each program.

4. Effectiveness of a State Program is not simply a matter of oversight of program activities.

Investigating how well EPA is overseeing the implementation of three separate delegated programs is entirely different than investigating whether or not a State's entire environmental program is successful, i.e., is achieving some specified environmental outcome. For example, an effective state water quality protection program comprises many elements besides a permitting program, such as the development of adequate water quality criteria and standards, comprehensive monitoring and assessment, development of appropriate TMDLs for impaired water bodies, and an effective enforcement program. An evaluation of the implementation and oversight of any one of the programs is merely one piece of information necessary to determine if environmental outcomes are being achieved.

5. The Divisions do have a Common Oversight Goal

The Report is critical of Region 6 for not having established a common oversight goal for all Divisions. We would like to point out that the common goal that all Divisions use is the accomplishment of the Agency's strategic goals and objectives for clean air, and for clean and safe water, among others. These goals provide senior management and Regional staff the guiding principles underlying the oversight of all state environmental programs, not just those that have been delegated. The report would be enhanced greatly if the definition, or criteria, being used to assess EPA's oversight of these programs were specified.

6. Report fails to recognize Regional steps taken to date to improve State Program

The Executive Summary doesn't acknowledge the steps taken by Region programs based on EPA's periodic oversight visits and monitoring of program outputs to improve the Louisiana programs. The report further states that Regional officials did not place strong commitments in Performance Partnership Grants (the documents that provide the funding) or Performance Partnership Agreements (which spell out how the two organizations will work with each other and what is expected of each), and did not take action to ensure Louisiana implemented strong, viable NPDES, RCRA, or Title V programs. We believe this statement to be inaccurate.

Region 6 conducts mid-year and end-of-year reviews of the LDEQ programs. In the enforcement area, we track inspection and enforcement commitments, identify data problems,

monitor program deficiencies, and then work with the State to correct them. In the water program, the Region has worked to negotiate stronger commitments in the grant work plans. The Region, on an annual basis, sends out guidance to the State that includes priorities to be included in the grant work plan. EPA has made increasingly stronger efforts to include these priorities in the grant work plan during the negotiations. For instance, we have helped LDEQ to implement specific measures to reduce the NPDES permit backlog. While the Region has made some progress in these areas, we recognize the need to continue those efforts. Our oversight activities also include an active technical assistance program, designed to support and enhance the State's programs. Many of the oversight-related activities taken by Region 6 are detailed in Attachment 3.

7. The Report unfairly perceives a failure by the Region to implement "outcome-based" measures.

The Report criticizes the Region for an oversight program that focuses on "outputs," not "outcomes." We evaluate States using the EPA/ECOS-based core program measures. The Agency as a whole is presently working hard to develop more outcome-related measures as indicators of program success, but many are not yet in place. Until those outcome measures are developed and the Agency has the data necessary to measure the accomplishment of them, it is unrealistic to implement them at the Regional level.

Responses to Recommendations

2-1: *Develop guidance for Region 6 personnel regarding the degree of oversight to be implemented and a consistent, coordinated approach when conducting state oversight.*

EPA agrees that senior managers should continue to take a more active role in effectuating a coordinated and effective oversight framework for program managers to follow. Division Directors have a different and broader view of oversight than their staff. Directors must view State programs in a holistic fashion to ensure that all elements of these programs are functioning adequately and in complementary fashion to ensure that broader environmental outcomes, such as clean and safe water, are met. Program managers and staff are tasked with ensuring that specific programs are being operated within the parameters for those programs established by federal laws and regulations and EPA Headquarters policy and guidance. As noted above in points 2 and 3, certain differences in the various oversight programs are necessary, and are consistent with an effective oversight program.

2-2: *Direct Region 6 personnel to follow Office of Air and Radiation guidance to review all Title V compliance certifications and determine if facilities are out of compliance with permit limits.*

This recommendation is too general to provide useful information on a course of action. Region 6 follows appropriate guidance to the extent practicable. As noted above, there are management priorities and resource issues which may limit the Region's ability to review "all" compliance certifications or other documents, and there is also a question as to whether a review of 100% of all certifications is the best way to oversee a delegated program. The Region is presently evaluating different review methods to find the most effective way to determine facility compliance rates.

2-3: *Determine whether Louisiana is properly charging its Title V work activities, and establish procedures to ensure that Louisiana's future work efforts are charged appropriately to EPA grants.*

End of year and Title V permit fee audits are being conducted in December, 2002.

2-4: *Hold Louisiana accountable for results through stronger grant commitments, including, but not limited to, placing special conditions on grants and, if necessary, withholding of funds.*

Over the years the Region has worked to negotiate stronger commitments in the grant work plans; however, it has not adopted a practice to withhold funds directly from States based on their inability to meet up to all of the requirements called for in their delegation agreements and PPG work plans. The Region believes that it is counterproductive to withhold funds from failing programs because it believes that this would lead to poorer performance. The Region is committed to provide States with as much assistance and flexibility as necessary to make State-delegated programs successful. This approach has achieved mixed result with the many state

programs it oversees. Rather than withhold funds, Regional managers have worked with States to devote part of their grant allocation to outside contracts to assist them with some of the weaker parts of their programs, e.g., contractor assistance to draft NPDES permits. The Region, on an annual basis, sends out guidance to the State that includes priorities to be included in the grant work plan as another method to address program inadequacies. EPA has made increasingly stronger efforts to include these priorities in the grant work plan during the negotiations. While the Region has made some progress in this area, EPA continues to work to strengthen State commitments and accountability.

2-5: Update the 1995 NPDES Memorandum of Agreement to accurately reflect the current organization, roles, and responsibilities of both Region 6 and Louisiana, and update other Memoranda of agreement or Understanding as needed.

The Region agrees that the Memorandum of Agreement between it and LDEQ should be revised and has made that comment to the State.

2-6: Work with Louisiana to validate data in AIRS, RCRA Info, and the Permit Compliance System and correct inaccuracies.

EPA and LDEQ will continue to work to verify accuracy of data in all of the databases mentioned. Data accuracy, timeliness, and accessibility are the underpinnings for the effective management of any program. Many activities have occurred to improve the accuracy of data which is not reflected in your draft report. See Attachment 2 for specific comments.

3-1: Develop measurements of oversight success that emphasize outcomes versus outputs, to include a clear definition of oversight and a statement of Region 6's vision, values, direction, and performance expectations.

We agree that it is important to develop performance measures by which managers can gauge outcome of programs on the environment. The Region is working with Headquarters on the development of such measures, and on the securing of data needed to implement such measures.

3-2: Develop and implement a systematic process to gather and evaluate feedback from Louisiana staff as well as managers, and use the feedback to make adjustments to the oversight process.

This recommendation has already been implemented. The Region systematically reviews all aspects of the program activities, as well as all other quality funded programs, on a mid- and end-of-year cycle to evaluate how well these programs are being operated. These reviews form the basis for new, and sometimes stricter, grant workplan commitments on an on-going basis as well as indicate where EPA can disinvest due to resource constraints. For many of its programs, EPA has continual conversations and meetings with LDEQ staff in an effort to obtain feedback and to identify those areas or processes in need of improvement.

Currently, other forms of oversight or communication include the following: all audit reports and processes are discussed at length with each State; coordinators speak with first line State

managers regularly; conference calls between LDEQ management and the EPA management occur about once/month to once/quarter. EPA also holds an annual manager meeting to discuss such issues in a State/EPA forum at the regional offices. Additionally, the Regional Administrator and Senior Managers gather feedback when they meet with State counterparts on a quarterly basis. In accordance with this theme, EPA has increased oversight activities and offered a more coordinated approach to oversight in Louisiana based on grant commitments not being met, program oversight activities, and previous State and IG audit reports regarding LDEQ.

3-3: Conduct independent evaluations of oversight effectiveness of each of its programs and incorporate strengths in other programs.

The request that the Region 6 Regional Administrator made to the Inspector General's office to conduct this review was, in essence, our attempt to have an independent review conducted. The Region will also explore other ways to constructively improve its programs.

Final Comments and Corrective Action Plan

Region 6 is committed to continuous improvement of its State's oversight programs and will plan to make the following modifications based on the IG's Report:

1. Clearly articulate the goal of oversight in order for LDEQ, EPA and the public to know what we expect to accomplish through oversight, how we will measure it, and consequences for non-performance. We expect to develop these criteria in consultation with all five States.
2. Identify critical program elements or activities that are not being tracked or measured, and work with Headquarters, through the Strategic Planning process, to develop new performance measures, including outcome-based measures, for FY2005.
4. Where there are program deficiencies, Region 6 will work with LDEQ to develop corrective measures and identify those areas where the Region can provide further assistance or guidance.

**OIG AUDIT REPORT
EPA REGION 6 OVERSIGHT OF
LOUISIANA'S ENVIRONMENTAL PROGRAMS**

This Attachment attempts to correct inaccuracies that we identified based on a line-by-line review of the report. We hope this is helpful to you as you prepare your final report.

Executive Summary

Page i: Results in Brief

1. **OIG:** “The Region’s oversight was insufficient because it ...relied on inaccurate data and data of unknown quality.”

6PD-RCRA: This statement is not factual. Region 6 is aware of inaccurate historical data and did not rely on it to make decisions. Instead, we relied on Public Notices, face-to-face communication and close working relationships. Reviewing databases is only one aspect of effective oversight.

Chapter 1: Introduction

Page 2, Background

2. **OIG:** “Region 6 has authorized Louisiana to carry out the following programs.” See chart on page 2.

6PD-RCRA: This referenced chart is not factual because there have been numerous updates to rule adoptions. Major rule adoptions are listed below:

Cluster	Federal Rules	Checklist	Reference (HSWA or FR)	Promulga- tion or HSWA Date	Authorization Effective
					LA
Base Program	● Identification and Listing (Part 261)	I A		11/11/81	02/07/85
	● Hazardous Waste Lists	I B		11/11/81	02/07/85
	● Characteristics of Hazardous Waste	I C		11/11/81	02/07/85
	● Generator Requirements (Part 262)	II		11/11/81	02/07/85
	● Transporter Requirements (Part 263)	III		11/11/81	02/07/85
	● Facility Requirements (Part 264)	IV A		11/11/81	02/07/85
	● Facility Interim Status Requirements (Part 265)	IV B		11/11/81	02/07/85
	● Permitting Requirements (Parts 270 & 124)	V		11/11/81	02/07/85
Recent Requirements (1/26/83-6/30/84) (Non-HSWA requirements prior to Non-HSWA I) States must adopt rules by 7/1/85, and apply for authorization by 9/1/85	● Biennial Report	1	48 FR 3977	01/28/83	02/07/85
	● Permit Rules; Settlement Agreement	2	48 FR 39611	09/01/83	02/07/85
	● Interim Status Standards; Applicability	3	48 FR 52718	11/23/83	02/07/85
	● Chlorinated Aliphatic Hydrocarbon Listing (F024)	4	49 FR 5308	02/10/84	02/07/85
	● National Uniform Manifest	5	49 FR 10490	03/20/84	02/07/85

Chapter 2: EPA Oversight Must Improve to Determine Program Effectiveness

Page 4, Inconsistencies within Divisions

3. **OIG:** The branch chief told us that the Region’s air oversight coordinator for Louisiana maintained all information regarding oversight issues and more, specifically, details regarding review of compliance certifications. However, when we spoke with the coordinator, he stated that he neither reviewed the certification nor was aware he was responsible for reviewing certifications. He also did not know who in Region 6 or Louisiana was responsible.”

6EN-A: The report indicates that the Branch Chief for Air Issues indicated that the Oversight Coordinator for Louisiana reviews Annual Compliance Certifications (ACC). There must have been a misunderstanding of what the Branch Chief said since specific individuals in the Branch are designated to review ACC. In general the coordinator does review most information provided by the state but not ACC.
4. **OIG:** The oversight team measures success by the number of permits reviewed and the number of objections letters issued.

6WQ-PO: This statement is inaccurate. The Oversight Team measures success by the number of permits issued by the State, the quality of the permits reviewed by the staff, and the permit program reviews conducted at the State.

The Branch does not use the number of objection letters issued as a measure of success. Rather the Branch works with LDEQ to resolve issues before the permit is sent to public notice. Because of this working relationship only rarely is an objection letter issued to the state. In any event, the Permits Branch reviews proposed permits to ensure they meet the requirements under the Clean Water Act. Findings are also documented in the mid and end-of-year evaluation reports which are prepared annually.
5. **OIG:** For example, a Louisiana official noted that Region 6 staff have sometimes established new policies for Louisiana rather than merely implementing policies that Region 6 managers had or should have created.

The Permits Branch is unaware of staff ever establishing policy and has always realized the importance of working with States up front when establishing all new policies.

Page 5, Inconsistencies Between Divisions

6. **OIG:** Table on page 5 that compares selected oversight activities indicates the programs do not conduct on-site reviews regularly.
- 6PD:** The chart is incorrect. Instead of “no’s”, Title V and RCRA programs should be marked “yes” for:
COperates as a formal oversight team
CConducts on site reviews regularly,
CVerifies data systems
CReviews proposed permits
7. **OIG:** The Chart on page 5 is incorrectly marked for Water Enforcement.
- 6EN-W:** The Water Enforcement Branch was incorrectly marked “no” as operating without a formal oversight team. The Branch has clearly identified coordinators who work as a team during the conduct of their formal meetings and audits, and act as principle points of contact for their state counterparts. The team is also responsible for reviewing the audit findings, drafting and finalizing the audit reports, and resolving any issues raised by the state.
- The Water Enforcement Branch was also incorrectly marked “N/A” as not reviewing proposed permits. The state coordinators and designated staff review all proposed/draft LDEQ permits (majors, minors and general permits) received to determine if the permit is enforceable as written, and to identify any errors or omissions in the permit limits or reporting requirements.
8. **OIG:** The Chart on page 5 comparing selected oversight activities indicates the RCRA programs are “in process” of verifying data systems.
- 6PD:** This statement is not factual. The Region 6 Air and RCRA technical and data management staff verify data in databases on an on-going basis [e.g. it should be marked ‘yes’]
9. **OIG:** The Chart on page 5 comparing selected oversight activities indicates the air and RCRA programs do not review proposed permits.

6PD: This statement is not factual. The RCRA programs review some of the proposed LDEQ , including: Federal facility permits, High Profile Permitting Actions, and Combustion permits. The Air program reviews a certain percentage of air permits every year.

10. OIG: The NPDES permitting oversight team makes semiannual visits to audit the NPDES program, whereas the Title V permitting staff have not made an on-site visit to the Louisiana Department of Environmental Quality (LDEQ) in almost 6 years.

6PD-AIR: This statement is not factual. EPA provided information about numerous forums for program reviews in the past. EPA has conducted monthly air permitting conference calls, midyear and End-of-Year reviews, and have held several management meetings. EPA has had the Louisiana Title V review scheduled for the week of December 9, for several months.

Page 5, Inconsistency Between Region 6 and EPA Headquarters

11. OIG: We noted inconsistency between EPA Headquarter’s guidance regarding oversight and the actions actually taken by Region 6 staff.

6WQ-PO: We are not aware of any differences between EPA HQs guidance and the Region 6 approach to oversight. In addition, the EPA NPDES Permits Branch continues to follow and has never deviated from the approach regarding state oversight and permit review as outlined in the Memorandum of Agreement executed between EPA and LDEQ when the NPDES program was authorized to the state.

12. OIG: Region 6 officials said they believe it is Louisiana's job to review ACCs.

6EN-A: This statement is a misquote and a partial statement. The actual discussion was that EPA needs to have an effective oversight program but that may not require reviewing 100% of the ACCs. Report should be corrected.

Page 6, Inconsistency Between Region 6 and EPA Headquarters

13. **OIG:** “In another case, because Region 6 staff have not followed Headquarters’ guidance for conducting Title V fee audits, they were unaware as to whether Louisiana employees were charging personnel costs properly.”
- 6PD-AIR:** This statement is not factual. Recently EPA Headquarters set targets to conduct fee audits in each of our States by calendar year 2005 or perform fee audits with two of our States per fiscal year. Due to resources and competing priorities, the fee audit for Louisiana was scheduled for December 9, 2002. The audit will examine if fees are adequate to cover the cost of the program; if fees are appropriately charged, and if air grant funds are used for Title V work.
14. **OIG:** For example, Region 6 has not followed EPA Office of Air and Radiation guidance to review 100 percent of Title V facility compliance certifications.
- 6EN-A:** Factual Error - Guidance on ACC is issued by the Office of Enforcement and Compliance Assurance not the Office of Air and Radiation.
15. **OIG:** In 2002, Region 6 reviewed only 15 of 2,548 Title V compliance certifications. . .
- 6EN-A:** The IG report should specify the specific timeframe regarding this number of ACC reviewed, since 2002 has yet to expire. Depending on the specific timeframe involved the actual number of ACC's reviewed will probably be significantly higher than the number cited in the report. For example, currently (still 2002) 170 ACC's have been reviewed. As stated above, an effective oversight program does not necessarily require that 100% of ACCs be reviewed.
16. **OIG:** We confirmed with a Louisiana enforcement official that Louisiana does not compare the certifications against permit limits to identify compliance problems.
- 6EN-A:** We believe OIG asked the wrong person at LDEQ about LDEQ's review of ACC. LDEQ does review each ACC. The enforcement staff compares the ACC which have significant deviations to the permit limits. Also, regarding facility compliance, a facility's responsible official is required to certify truth, accuracy and completeness for all ACC and 6 month reports.

Region 6 is currently reviewing at least 170 ACCs for, among other reasons, to evaluate whether reviewing 100% of the ACCs is an effective way to use staff time. In the past the Region has developed a checklist for ACC reviews and reviews a selected number of ACC. The Region has detailed a staff person to spend full time on ACC review.

17. OIG: Moreover, the Louisiana Legislative Auditor's Office confirmed in its March 2002 report that Louisiana did not routinely compare permitted facilities annual air emissions statements to permit requirements to determine whether facilities were in compliance. As a result, Title V facilities may be incorrectly reporting they are compliant.

6EN-A: LDEQ has procedures set forth to identify those sources not submitting reports. They send letters to the facilities giving them a schedule to comply with. If a facility does not comply with the schedule to submit, enforcement action is taken.

LDEQ has other enforcement processes in place to determine facility compliance. The LDEQ enforcement program includes on-site inspections, file reviews including ACC and 6 month monitoring reports. EPA does need to work with LDEQ to further incorporate the 6 month monitoring reports into their routine enforcement process.

Page 6, Region Leadership Did Not Hold Louisiana Accountable

18. OIG: There was a large backlog of permits to issue. Louisiana had not issued 38 percent of the remaining initial Title V air permits it committed to Region 6 to issue.

6PD-AIR: This statement is not factual. As we documented in our previous comments, Louisiana is average for issuance of Title V permits. National statistics, as of September 30, 2002, on initial Title V issuance rates indicate that the average issuance rate is 75%. Louisiana has issued 67% of their initial Title V permits. LDEQ has committed to issue all remaining initial Title V permits by December 2003. We will continue to work with the State in developing the appropriate plan to accomplish this goal. The December 2003 deadline that was negotiated between the Region and LDEQ demonstrates oversight by the Region.

In addition, the OIG should review the December 2 memorandum from

Carl Edlund to Randy Holthaus which gave examples of how LDEQ was being held accountable for meeting environmental goals in its standard-setting, permitting, and monitoring programs.

Page 7, Region Leadership Did Not Hold Louisiana Accountable

19. OIG: “...the EPA database into which states input information on hazardous waste facilities contained many errors.”

6PD-RCRA: This statement is misleading. During FY 2001 the Region completed a massive data cleanup initiative of the RCRA Info permitting data. We performed comprehensive reviews and researched files and facility documents. We then began correcting identified data anomalies. Summary narrative reports were written for each GPRFA facility which included detailed descriptions of each unit in the facility, its current status, and activities that occurred during the life of that unit. This information was provided to the state for review, data verification/correction, and other appropriate action. The Region met with the state on several occasions to review information and make corrections.

In August 2002, a team of scientists, engineers, and data EPA personnel spent a week at LDEQ reviewing files and documents, interviewing state staff and updating the EPA database.

6EN-H: Region 6's RCRA Enforcement Program MY and EOY identifies data problems which the state corrects, as quickly as possible.

20. OIG: Despite all of the documented problems with Louisiana's carrying out its environmental programs, we found no evidence that the Region escalated its oversight approach by placing conditions on grant funding, withholding funding, entering into consent agreements, or holding public fact finding hearings.

6PD-RCRA This statement is not factual. For example, during FY 96, the Region identified a significant problem regarding combustion permits issued by LDEQ. Despite the fact that Louisiana had one of the largest combustion unit universes in the country, no combustion permits had been issued. The Region pursued a joint workshare agreement with LDEQ and withheld authorization until an agreement was reached. For over five years, the State has worked with EPA to complete the permitting process for combustion units. The Region 6 RCRA program has evaluated the current information available to us and has not found significant

problems with the Louisiana RCRA permitting program at this time.

Page 7, Agreement/Grant Documents Need More Meaningful Commitments

- 21. OIG:** There are no commitments within the Performance Partnership Agreements or Grants that address the NPDES backlog, nor does EPA require Louisiana to issue NPDES permits in a manner and number that will reduce the backlog. The grants are annual agreements that help lay out goals and performance measurements. National guidance requires EPA to include these measures in the form of outputs in its agreements with states.
- 6WQ-AT:** The information in the first sentence is not factual and it does not recognize all of the steps that the Region has taken to correct problems. EPA has consistently worked with LDEQ, via the P.P.G. work plan to ensure that LDEQ implement measures to reach national backlog reduction goals for major and minor permit issuance. LDEQ, has submitted a backlog reduction strategy and has stated via the work plan, that they will review the backlog reduction strategy and keep it current. The Louisiana FY 02 P.P.G. Work plan includes specific permit issuance projections for FY 02 as follows: major permits - 65; minor permits - 415; new or renewal general permits - 3; general permit: non-storm water - 650 and MSGP & Construction - 700.
- The Work plan also states “Louisiana acknowledges that permit issuance is an important aspect of the NPDES program and LDEQ senior management is committed to the elimination of the NPDES backlog. To reduce the backlog to less than 10% for all permits within the next four years, Louisiana DEQ has identified and implemented several proactive strategies, presented in that document.” In addition, the grant work plan includes activities that address the Region and State efforts to reduce the backlog through a national contract. The State designated a portion of their CWA, Section 106 allocated funding for EPA use as in-kind assistance to be awarded in a national contract to draft permits in an effort to reduce the permit backlog. Also, the State has used CWA, Section 104(b)(3) grant funding to enter into a State contract to draft permits to reduce the backlog. EPA held numerous meetings with LDEQ to garner commitments from LDEQ to issue a sufficient amount of permits to eliminate the backlog of major/minor permits by 2004/2005. These permit issuance commitments were placed in the P.G.
- 6WQ-PO:** In addition, the EPA Permits Branch has been proactive in its approach to assisting LDEQ in overcoming its backlog problems. Multiple meetings

and conference calls have been held, and EPA prepared approximately 20 major permits during FY 02 to assist LDEQ in reducing its backlog.

- 22. OIG:** Although Region 6 recognized that Louisiana was not issuing timely NPDES permits, it did not include a commitment on the part of the state to submit a backlog reduction plan in any grant documents.
- 6WQ-AT:** The backlog strategy has been a part of the grant work plan negotiations. In addition, the backlog reduction strategy has been addressed in the past several Louisiana P.G. Workplans. Please note that the FY 02 Work plan states “In FY 2000, Louisiana developed a strategy document to address national concerns regarding the NPDES program and specifically the backlog of facilities operating under expired yet administratively continued permits or facilities where permits have never been issued.” It further states “LDEQ will review the strategy document periodically and keep it current.”

Page 8, Region Relies on Inaccurate Data

- 23. OIG:** RCRA program staff told us they knew that the RCRAInfo database is inaccurate but have not yet taken strong action to ensure Louisiana corrects inaccuracies. And “...Region 6 has not taken, or required Louisiana to take, action to correct the deficiencies.”
- 6PD-RCRA:** This statement is not factual. The Region 6 RCRA program met with Louisiana Senior staff to alert them of the issue. Region 6 has taken specific steps to identify anomalies. From a broader perspective, this is a small aspect of Louisiana’s program, albeit an important one. Louisiana is making progress to correct information, but all corrections have not yet been made. The fact that some of the historical data is inaccurate doesn’t mean Louisiana is not running an effective program.
- 24. OIG:** In 1996, OIG reported that the Aerometric Information and Retrieval System (AIRS) database, including Louisiana data, was inaccurate, inadequate, and untimely. However, Region 6 has not taken, or required Louisiana to take, action to correct the deficiencies.
- 6PD-AIR:** This statement is not factual. Since 1994 monthly then quarterly reports of all activity in the data system were provided to the state and the appropriate state project officers. The project officers have reviewed and retained these reports in the grant files. The state was asked to review and validate these figures. Additionally, the 1996 OIG audit (*Region 6’s Enforcement and Compliance Assurance Program*) referred to Significant

Violator data tracking in AFS. There was quite a bit of action taken after that audit, resulting in a Memorandum of Agreement (MOA) between the Multimedia Planning and Permitting Division and the Compliance Assurance and Enforcement Division, outlining a procedure to ensure the HPV (SV is now High Priority Violator) data in AFS was correct. Monthly teleconferences were established with Louisiana tasked with the manual update of AFS for these sources. Files reflect records of these monthly calls are maintained.

Page 8, Memorandum of Agreement Needs Updating

25. **OIG:** The 1995 NPDES agreement has not been updated to include Louisiana's current organization.
- 6WQ-PO:** Please note that the effective date for the NPDES Memorandum of Agreement between EPA and LDEQ is August 27, 1996.

Page 9, Conclusion

26. **OIG:** EPA and states in general have been unable to agree on state flexibility and accountability issues.”
- 6EN-W:** This is a national issue. Both EPA and states need to be accountable.

Chapter 3: Region 6 Could Better Measure Its Oversight Effectiveness

Page 12, Region Could Not Measure Effectiveness of Oversight

27. **OIG:** “...they [Region 6] evaluate RCRA oversight by counting activities, and consider themselves successful if they do not receive citizen complaints or outside criticisms.”
- 6PD-RCRA:** This statement is not factual. Lack of criticism does not indicate success of a program.

OIG AUDIT REPORT
EPA REGION 6 OVERSIGHT OF
LOUISIANA'S ENVIRONMENTAL PROGRAMS
Description of Current Oversight Activities

Attachment 3 provides brief descriptions of some of the oversight activities undertaken by EPA Region 6 to evaluate Louisiana Department of Environmental Quality's environmental programs audited by the Office of Inspector General. The following narrative does not represent an exhaustive list of activities conducted by each of the programs discussed below. Additional information regarding oversight activities can be provided to the OIG upon request.

NPDES Permitting Program

The Clean Water Act authorizes EPA and approved States to administer the NPDES program. This program is the basic regulatory mechanism for ensuring dischargers meet the requirements of the Clean Water Act. The States of Arkansas, Louisiana, Oklahoma, and Texas are approved to administer the NPDES program in Region 6. EPA retains the lead responsibility in the State of New Mexico.

CWA, Section 106 allows for grant funding of the NPDES permitting activities. Section 106 funding has been awarded to Louisiana via categorical grants and more recently through Performance Partnership Grants. The Region has negotiated grant workplans with Louisiana that have included specific commitments for permitting activities. The Region performs oversight of the State's negotiated workplan activities to determine progress toward completing the outputs identified in the approved workplan.

EPA Region 6 Oversight of the States NPDES Program is modeled after the National Guidance for Oversight of NPDES Programs, dated May 1987. Most important oversight activities include routine real time permit reviews of all major permits drafted by the states and biannual Permit Program reviews conducted at the States offices. Permit reviews are performed to ensure Clean Water Act requirements are met. Comprehensive program reviews evaluate the states permitting program including permit issuance rates and processes, pretreatment, toxicity controls, and implementation of state and federal regulations. A number of state issued permits not previously reviewed by EPA are reviewed at this time for technical adequacy. Findings of these comprehensive program reviews, including program strengths and deficiencies, as well as recommended corrective actions are provided in mid year and end of year reports. Since the authorization of NPDES program to the State of Louisiana on Aug. 27, 1996:

- The EPA has conducted 10 mid- and end-of-year evaluation reports.
- LDEQ has attended 4 program managers meetings to discuss problems and new initiatives affecting state programs.
- EPA & LDEQ have periodically conducted monthly conference calls on backlog

issues.

- EPA has had a minimum of 11 meetings with LDEQ to discuss the backlog.
- EPA has had a minimum of 4 additional meetings to discuss other permitting issues.
- EPA and LDEQ have held at least 4 meetings to discuss PPG activities.
- EPA and LDEQ have held 3 meetings to discuss the SAIC contract for preparation of LPDES permits.

All program evaluations, development of strategies and policies and permit comments are discussed at length with the state. This allows them to have input in Federal oversight of their program. EPA State coordinators speak with first line state managers regularly. Conference calls between LDEQ management and the NPDES Branch chief and Team Leader occur at least once per quarter. EPA also holds an annual program managers meeting to discuss any program issues in a State/EPA forum at the Regional offices.

RCRA Permitting

To continually improve our oversight, the Region 6 RCRA program regularly asks the state to evaluate the effectiveness of our programmatic responsibilities. Program issues are informally discussed with the States during the Mid-Year grant review, and are used as a basis for grant negotiations. In addition, the Region does programmatic assessments/reviews as a part of the authorization process. We prepare MOUs with the State as each authorization cluster is implemented.

Oversight has evolved into a technical assistance approach with our authorized states to best utilize our resources and provide support that will enhance the States' programs. Areas of EPA technical expertise and assistance include: combustion support (trial burn plan reviews, risk assessments, combustion workshare agreements, periodic technical exchange meetings); Corrective Action (Region 6 Corrective Action Strategy, Ready for Reuse, Base Closure team, Groundwater modeling); Participation in site-specific activities (i.e. Calcasieu) including attending LDEQ's quarterly CA and legal meetings to provide a technical assistance and oversight, providing air modeling assistance to LDEQ to site additional air monitors in the Lake Charles area; PPG/TSCA combustion unit testing in 2001 (peer review of trial burn plans and oversight of the trial burn; finalizing the BIF risk assessments per the Combustion WorkShare agreement and its impact on RCRA grant commitments; HWC MACT/Title V permit coordination to address RCRA risk, per the Combustion WorkShare agreement; Dow-Plaquemine groundwater monitoring technical assistance (national experts in EPA's KERR lab in Oklahoma) due to complexity of assessment and independent technical review; ensure state progress in addressing the GPRA CA facilities and GPRA permit workload universe; and Training (RCRA Overview training for staff new to RCRA permitting, RCRA Corrective Action training on "how to tailor a HSWA permit." In addition, the Office of Solid Waste (OSW) at EPA Headquarters does independent analyses of Regional/State effectiveness for meeting GPRA measures.

AIR Permitting

Air State Tribal Operations. The Air State Tribal Operations program discusses Program issues with the State during the Mid- and End-of-Year grant reviews, and participates in grant negotiations on an annual basis. The State Tribal Operations program most recently conducted an on-site EOY review in December, 2002. A questionnaire (attached) was provided to the State ahead of time to obtain specific details of accomplishments which were discussed at the end-of-year review. The State Tribal Operations program also conducted the Title V Fee review in December, 2002.

To improve accountability, the State Tribal Operations program enhanced the FY03 workplan to have more specific air permitting, planning and monitoring requirements.

The Air program holds annual State-EPA planning meetings to discuss planning, permitting, monitoring, Toxics and grant activities with states. The States use these meetings as a forum to report to EPA on their progress. The last meeting was held in November, 2002.

Air Permitting. The Air Permitting program conducts monthly conference calls with the State on permitting progress and on current permitting issues. Region 6 permitting staff review draft Title V permits and provide comments to the state on an on-going basis. In addition, we conducted an on-site Title V Permit Review in December, 2002.

Air Planning. The Air Planning program conducts monthly Air Planning Conference calls with the State on a variety of planning and SIP-related activities. We review proposed LDEQ regulations and provide comments during State public comment periods and review and approve final LDEQ regulations into the SIP. Staff from the air planning program also participated in the Baton Rouge Ozone Taskforce stakeholder process during 2001 and the Shreveport Early Action Compact Stakeholder process during 2002.

Air Quality Analysis. The Air Quality Analysis program oversees Louisiana's implementation and operation of air monitoring devices supported by the National Air Monitoring Station (NAMS) and State and Local Air Monitoring Station (SLAMS) networks. The Air Quality Analysis program has also been closely involved in establishment, data processing, and data analysis for special Photochemical Air Monitoring Stations (PAMS) sites in the Baton Rouge area. The PAMS are particularly designed to give detailed information about ozone and ozone precursors in ozone non-attainment areas of special concern. We have also worked with Louisiana on the deployment of a fine particulate monitoring network over the past three years.

State Enforcement Programs

RCRA Enforcement

Region 6's RCRA Enforcement Program reviews the States' RCRA Enforcement Programs inspection and enforcement reports for adherence to the Hazardous Waste Civil Enforcement Response Policy, dated March 15, 1996. Inspections that note violations, specifically significant violations should be addressed by a Civil Enforcement action with a penalty within a specific timeframe. Region 6 has noted that some of the violations are misclassified and that data is not entered into the RCRA data system properly and timely. Improper data is an important issue because all data will be available to the public in FY 2003.

Coordination with states: Region 6 RCRA Enforcement has offered to hold periodic conference calls with the states to coordinate inspections and enforcement actions. Monthly or quarterly calls are held with those states that wish to participate.

File reviews: Region 6 RCRA Enforcement has begun to conduct file reviews for state enforcement program oversight. File reviews have been conducted at three states and an additional state review is to be conducted in FY03.

The following is a list of the data that the Region reviews for each state:

- Number of inspections conducted in the various RCRA Facility types.
- 2. Number of inspection types conducted.
- 3. Review of Enforcement actions: SNC's due formal enforcement, timely and appropriate formal enforcement for other than SNC violations.
- 4. Four year trends in inspections, enforcement actions, penalties and SEPs.

****NOTE:** RCRA does not do file reviews for midyear and end-of-year grant reviews.

NPDES Enforcement

NPDES Delegation. Under the delegation documents (MOA, Program Description, and Enforcement Management System), states are to operate and maintain an effective data management system, compliance monitoring program, enforcement program and inspection program, as well as effectively respond to citizens' complaints and third party legal actions.

NPDES Oversight. The Region's oversight program consists of quarterly coordination meetings, semi-annual file reviews, training, daily and weekly coordination on enforcement actions, policy development, data management, and oversight inspections.

Semi-Annual File Audits. The objective of file reviews is to ensure that the delegated program

is being operated in a manner consistent with the MOA, program description, and enforcement management system. These documents include extensive and comprehensive requirements. Periodically, a targeted review of selected portions of the program may be conducted in lieu of a complete program review. In preparation for these file audits the State Compliance Monitoring Coordinator and the NPDES Enforcement Coordinator, with input from the appropriate section chiefs, will identify files for review from an extensive list of criteria. After facilities have been selected for the audit, PCS retrievals for those facilities are reviewed prior to the audit to determine whether the state met the timely and appropriate criteria for enforcement actions on the major facilities and data input into PCS, according to the Enforcement Response Guide and the PCS Policy Statement.

File Audits. A file audit involves both an administrative and a technical review to gain a complete picture of each facility and identify trends and deficiencies. The file audits will concentrate on:

1. Facility Level Information in PCS.
2. Permit Limits in PCS.
3. Enforcement Order Limits.
4. Discharge Monitoring Report (DMR) Data.
5. Inspection Reports.
6. Compliance Schedules.
7. Enforcement Actions.
8. QNCR.
9. Citizen Complaints.
10. Third Party Suits.

Summary of Audit Findings. The EPA audit team evaluates the audit findings and determines the general areas of concern and/or trends to be discussed at the follow-up meeting. This discussion may include information on whether the State is following their current policies and procedures outlined in their MOA, EMS and other delegation documents. After the meeting, the EPA state coordinators will prepare a meeting summary, along with a detailed report of each file audit. This report will include positive program highlights, as well as any problems and/or deficiencies noted. Recommendations to modify or update the delegation documents to meet the most current procedures, resource concerns, and any training needed by state personnel will be included. The state should follow up on findings and corrections which will be reviewed at the next semi-annual audit. The EPA, as a result of the file audit, and consistent with the signed delegation agreement, may initiate direct enforcement action against specific delegated facilities if certain conditions are met.

Air Enforcement

In general, there is no formal protocol in use at this time. A national protocol for the Air

program was developed and used in the mid-1980's, but is no longer used, at least in most regions. State expectations are identified in the MOU, PPG and 105 AIR grant.

A monthly or quarterly conference call is used to share air enforcement information with the States. Topics include discussion on high priority violators (HPV's), inspections, and other issues related to the air enforcement program. The AFS data base is used to track enforcement and inspection activity.

An End-of Year (EOY) review for each State is conducted in cooperation with the 6PD Air Program staff.

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