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OFFICE OF INSPECTOR GENERAL
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CHICAGO, ILLINOIS 60604

OFFICE OF AUDIT
312/353-2486

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OFFICE OF INVESTIGATION
312/353-2507

SUBJECT: Audit Report No. E1SJF9-05-0274-0100172
Review of Superfund Cost Recovery Accounts
Receivable Establishment and Collection

FROM: Anthony C. Carrollo
Divisional Inspector General for Audits
Northern Division

TO: Edwin B. Erickson
Regional Administrator
Region 3

SCOPE AND OBJECTIVES

We performed an audit of Region 3's collection of Superfund cost recovery amounts. The purpose of the audit was to determine if:

1. Cost recovery amounts are recorded as accounts receivable in EPA's financial records.
2. Cost recovery amounts are collected in a timely manner.
3. Interest is assessed upon late payment.

We reviewed Superfund cost recovery amounts which resulted from cost recovery enforcement actions for Region 3 Superfund sites. The review focused on amounts due from cost recovery actions completed from October 1, 1986 to September 1, 1989. We judgmentally selected to review the cost due from 11 of 44 (25 percent) cost recovery enforcement actions completed during fiscal years (FY) 1987 through 1989. We also reviewed the collection of oversight costs for three enforcement actions. Therefore, we reviewed 14 (11 + 3) cost recovery amounts due.

We recognize that, because our sample of enforcement actions was a judgmental sample and not a statistical random sample, statistical projections cannot be made on the remaining enforcement actions in the universe. However, while our findings cannot be statistically inferred to the larger universe of enforcement actions, our sample was sufficient to satisfy our audit objectives.

EPA delegated the responsibility for tracking and collecting cost recovery amounts owed to the regions at the beginning of FY 1989. Therefore, for FY 1989, Region 3 was responsible for all Superfund cost recovery activities including (1) recording of accounts receivable and (2) ensuring the payments were collected. For the prior fiscal years, Region 3 was responsible for all other activities related to the collection of cost recovery amounts owed except recording and collecting.

We performed the audit in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (1988 revision). Fieldwork was conducted from July 17, 1989 to January 3, 1990. We reviewed reports, policies and procedures, and cost recovery and accounts receivable files. Also, we held discussions with regional Superfund, counsel, and financial management officials.

Significant instances of noncompliance with internal administrative controls are detailed in this report. No other issues came to our attention which were significant enough to warrant expanding our review.

We discussed our findings and recommendations with Region 3 officials. Their comments and actions taken in response to our findings are discussed in the body of this report. A copy of Region 3's February 20, 1990 reply to our draft report is attached as Appendix 1.

SUMMARY OF FINDINGS

Region 3 needs to (1) consistently record Superfund cost recovery amounts due on its financial records, (2) make timely collections, and (3) collect interest for late payments. Debts arising from consent agreements in enforcement actions and Superfund cost recoveries are valuable government assets, and EPA procedures are intended to protect these assets. Failure to report actions that create these debts, or failure to report them timely, results in substantial losses to the Hazardous Substance Superfund (Superfund Trust Fund).

1. Accounts Receivable Need To Be Consistently Recorded

For 9 of 14 settlement documents we reviewed, neither Headquarters nor Region 3 were consistently and promptly recording accounts receivable (about \$3.1 million) on the Agency's financial records. Thus, the Agency's control over monies owed to the Superfund Trust Fund was ineffective. Because receivables were not recorded, the Agency was not aware of all payments which were due the Superfund Trust Fund. As a result, a payment might be diverted, lost, or not paid without anyone being aware of it.

The Agency was also not meeting internal control standards which require that significant events be promptly recorded and properly classified. The failure to record a receivable for amounts due to the Superfund Trust Fund is a material weakness in internal controls.

The FY 1989 Agency Operating Guidance stated that the success of collecting cost recovery payments depends on being sure that case closing information is immediately sent to the regional financial offices. This ensures that the collections can be recorded properly and receivable amounts can be accurately reported to management. Accounts receivable were not consistently recorded in Region 3 because: (a) the Office of Regional Counsel did not timely forward settlement documents to the Financial Management Office in all cases, and (b) there was no assurance that Financial Management Office received settlement documents timely.

In response to our draft report, the Regional Administrator stated that he believed the finding was overstated because it includes those actions that Headquarters was responsible for prior to FY 1989. If the actions prior to FY 1989 are eliminated from the review, no material weakness in Region 3's internal controls would be found. The Region believed that an internal control review is not justified because existing procedures adequately insure the recording and recovery of all Trust Fund receivables.

Notwithstanding the comments made by the Region, we are still of the opinion that the existing procedures were not adequately implemented to ensure that all amounts due for Superfund cost recovery are recorded as accounts receivable. We recognize that the Headquarters Financial Management Division, and not Region 3, was responsible for recording accounts receivable and ensuring payments were collected prior to FY 1989. However, for each year we reviewed, Region 3 was responsible for all other activities, including forwarding settlement documents to financial management. As stated in our report, we found that (a) settlement documents were not consistently forwarded to the Financial Management Office and (b) only one settlement document was date stamped by the Financial Management Office as verification of when it was received.

We agree that Region 3's procedures, when consistently followed, are adequate to ensure the recording and recovery of all Superfund Trust Fund receivables. In our opinion, the Region's inconsistent implementation of its procedures is a material weakness in internal controls because it significantly weakens safeguards against waste, loss, unauthorized use or misappropriation of funds.

We recommend the Regional Administrator, Region 3, take appropriate action to direct the Office of Regional Counsel, the Hazardous Waste Management Division, and the Financial Management Office to ensure that (a) settlement documents are timely forwarded to the Financial Management Office and (b) Office of Regional Counsel's tracking system is regularly reconciled with the financial management system. Also, an alternative internal control review should be conducted during FY 1990 to ensure receivables are promptly recorded on the financial records.

2. Prompt Action Needed To Collect Amounts Owed

Region 3 was not promptly collecting cost recovery amounts owed to the Superfund Trust Fund because of (a) delays in sending accounting data to responsible parties, (b) late payment of amounts due, and (c) delays in notifying responsible parties. These conditions existed primarily because the enforcement personnel in the Superfund Remedial and Removal Branches had not reported all oversight cases for billing to the CERCLA Cost Recovery Section. Delays in collecting amounts owed resulted in lost interest to the Superfund Trust Fund of \$11,553.

Of the 14 settlement documents reviewed, we found 6 cases (43 percent) where collection of amounts owed was delayed. The U.S. Treasury Department currently invests Superfund monies in 52-week U.S. Treasury MK Bills. When cost recovery amounts are not promptly collected, the Superfund Trust Fund loses the interest which would have accrued.

In response to our draft report, the Regional Administrator stated that the Office of Regional Counsel, the Hazardous Waste Management Division and the Office of the Comptroller developed written procedures for billing oversight costs. The procedures will be reviewed and finalized during FY 1990. Also, the Comprehensive Environmental Response and Liability Information System (CERCLIS) will track oversight billings and ensure that the bills are issued timely.

The actions planned by the Region, when properly implemented, will substantially correct the deficiencies cited in this finding. We recommend that the Regional Administrator ensure regional officials complete their planned actions.

ACTION REQUIRED

In accordance with EPA Order 2750, the action official is required to provide this office a written response to the audit report within 90 days of the audit report date.

We have no objections to the further release of this report at your discretion. Should you have any questions, please call me or Lee Stevens.

BACKGROUND

In 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. This law provides EPA with the authority and necessary tools to respond directly or to compel potentially responsible parties to respond to releases of hazardous substances, pollutants or contaminants. CERCLA was reauthorized and amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (SARA).

CERCLA Section 107 states that generators and transporters of hazardous substances, as well as past and present owners and operators of hazardous waste sites, are strictly, jointly, and severally liable for the costs of cleanup. Once EPA undertakes a response using Superfund Trust Fund monies, it can recover costs from the responsible parties. EPA may recover Federal response costs from any or all responsible parties involved in a remedial action. The monies recovered go back into the Superfund Trust Fund for use in the future.

A major goal of the Superfund program is to have potentially responsible parties (PRPs) cleanup sites that are releasing or threatening to release hazardous substances. The enforcement process normally used by EPA to achieve this goal may involve five major efforts. First, EPA attempts to identify PRPs as early as possible. Second, EPA will encourage the PRPs to cleanup the site. Third, if EPA believes the PRP is willing and capable of cleaning up the site, an enforcement agreement is negotiated. The agreement may be entered in court, or it may be an administrative order. Under both agreements EPA oversees the PRP. Fourth, if a settlement is not reached, a unilateral administrative order may be issued to compel the PRP to perform the cleanup. Fifth, if the PRPs will not perform the cleanup, EPA will perform the cleanup and file a suit against the PRP to recover the money spent.

The Superfund Trust Fund is administered by the Treasury Department. It is funded primarily by environmental taxes on petroleum and on the sale or use of certain chemicals. Other sources of funding for the Superfund Trust Fund are fines and penalties paid by individuals and entities, cost recoveries, and interest. EPA collects these funds and deposits them into the Superfund Trust Fund. When amounts from any of these sources are credited to Superfund Trust Fund, they are invested in U.S. Treasury MK Bills. Monies in the Superfund Trust Fund not needed for current expenditures remain invested, and only those amounts required for current expenditures are redeemed. All earnings are credited to and become part of the Superfund Trust Fund.

FINDINGS AND RECOMMENDATIONS

Finding No. 1 - ACCOUNTS RECEIVABLE NEED TO BE CONSISTENTLY RECORDED

For 9 of 14 settlement documents we reviewed, neither Headquarters nor Region 3 were consistently and promptly recording accounts receivable (about \$3.1 million) on the Agency's financial records. Thus, the Agency's control over monies owed to the Superfund Trust Fund was ineffective. Because receivables were not recorded, the Agency was not aware of all payments which were due the Superfund Trust Fund. As a result, a payment might be diverted, lost, or not paid without anyone being aware of it.

The ultimate responsibility for good internal controls rests with management. Internal controls should be recognized as an integral part of the collection of Superfund cost recovery amounts. Also, debts arising from consent agreements in enforcement actions and Superfund cost recoveries are valuable government assets, and EPA procedures are intended to protect these assets. Failure to report actions that create these debts, or failure to report them timely, results in substantial losses to the Superfund Trust Fund. The failure to record receivables for amounts due to the Superfund Trust Fund is a material weakness in internal controls.

The FY 1989 Agency Operating Guidance stated that the success of collecting cost recovery payments depends on being sure that case closing information is immediately sent to the regional financial offices. This ensures that the collections can be recorded properly and receivable amounts can be accurately reported to management. Accounts receivable were not consistently recorded in Region 3 because: (1) the Office of Regional Counsel (ORC) did not timely forward settlement documents to the Financial Management Office (FMO) in all cases, and (2) there was no assurance that the FMO received settlement documents timely.

EPA's Financial Management Manual, Chapter 7, states that an account receivable is to be promptly established for all amounts owed. In order for receivables to be recorded, settlement documents need to be sent to the FMO. EPA's Comptroller issued a December 9, 1986 memorandum to all regions stating that Agency officials responsible for actions creating debts must ensure that copies of the settlement documents are forwarded to the FMO. The Comptroller also stated the responsibility for debts arising from settlements is not solely a financial management function, but that all Agency staff are accountable for these assets.

EPA's Resource Management Directive System (RMDS) Chapter 2550D "Financial Management of the Superfund Program" (2550D), issued on August 25, 1988, contains guidance on establishing receivables

for cost recovery. The guidance states that Superfund Branch Chiefs should ensure that settlement documents are forwarded to the FMO within one work day of final signature. As to establishing accounts receivable, 2550D refers to RMDS 2540, Chapter 9, "Receivables and Billings" for more information. However, this guidance has not been issued to date.

The amount and timing of cost recovery amounts may be found in documents such as responsible party agreements, consent decrees, administrative orders, settlements, court orders, judgments, etc. The documents may (1) require payment of a fixed amount, or (2) state that EPA will send the responsible party accounting data which specifies the amount owed. Any document, including accounting data, which establishes an amount owed is referred to as a settlement document throughout the report.

We judgmentally selected to review the costs due from 11 of 44 (25 percent) cost recovery enforcement actions completed during FYs 1987 through 1989. For each of the enforcement actions selected, we reviewed the collection of monies due the Superfund Trust Fund for costs incurred by EPA before the effective date of the enforcement action. We also performed a limited review of the collection of monies due the Superfund Trust Fund for cost incurred after the effective date of the enforcement action (oversight costs). We reviewed the collection of oversight costs for three enforcement actions. Therefore, we reviewed 14 (11 + 3) settlement documents which established amounts owed for past costs and/or oversight costs.

Settlement Documents Not Consistently Forwarded To FMO

Settlement documents were not consistently forwarded to the Headquarters or Region 3 FMOs. The settlement documents reviewed represented \$3.7 million due to the Superfund Trust Fund. For the 14 settlement documents reviewed, 36 percent (5 of 14), amounting to \$1.3 million, were not forwarded to the FMOs.

| <u>FY</u> | <u>Number Of Settlement Documents Reviewed*</u> | <u>Settlement Documents Not Forwarded To FMO</u> | <u>Settlement Documents Forwarded To FMO</u> | <u>Costs To Be Recovered</u> |
|-----------|---|--|--|--------------------------------------|
| 1988 | 7 | 3 | 4 | \$2,557,390 |
| 1989 | <u>7</u> | <u>2</u> | <u>5</u> | <u>1,166,175</u> |
| Total | <u>14</u> | <u>5</u> | <u>9</u> | <u>\$3,723,565</u> |

- * Each responsible party agreement, consent decree, administrative order, settlement, court order, or judgment is counted as a settlement document. In addition, for the three settlement documents where we reviewed the payment of oversight costs, each billing

is counted as a settlement document. For one of the settlements (Maryland Sand and Gravel), the billing for oversight costs had not been prepared as of January 3, 1990, the end of our fieldwork.

Even though 64 percent (9 of 14) of the settlement documents were forwarded to the FMOs, we could not determine when 6 of 9 settlement documents were forwarded. The six settlement documents were Maryland Sand and Gravel, Harvey and Knott, Holder Chemical, Chisman Creek, Palmerton Zinc, and Henderson Road.

The five cases where settlement documents were not forwarded to the Headquarters FMO or Region 3 FMO promptly were United Rigging (\$2,844), Saltville Waste Disposal (\$456,000), Middletown Road (\$300,000) Raymark Industries (\$539,205), and Maryland Sand and Gravel (Oversight) (\$35,000).

Regional officials stated that the ORC, specifically the Regional Hearing Clerk, was responsible for forwarding all settlement documents to the FMO. FMO in turn was to date stamp the settlement document when it was received. We found that the settlement documents were generally not date stamped by FMO. Also, ORC did not keep a log of when settlement documents were sent to FMO. Without a log or date stamp, we could not determine when the document was sent by ORC or received by FMO. Also, Region 3 had no assurance that settlement documents were received in FMO, when forwarded by ORC.

In the three cases where we could determine when FMO received the settlement documents, only one was date stamped by the FMO. The other two settlement documents were oversight billings which were prepared by FMO.

Region 3 officials stated that they use the Superfund Desk Operating Procedures, issued by Headquarters Financial Management Division, as guidance on forwarding settlement documents to the FMO. However, our review found that Region 3 did not have assurance that the FMO was timely receiving settlement documents. Region 3 needs to ensure that (1) guidance for forwarding settlement documents is consistently followed and (2) the FMO date stamps settlement documents as verification of when they are received.

Accounts Receivable Need To Be Consistently Recorded

As shown in the schedule on page 7, settlement documents were not forwarded to Headquarters or Region 3 FMOs in 5 of 14 cases. In the remaining 9 (14 - 5) cases where settlement documents were provided, Headquarters FMO did not consistently follow procedures in the Financial Management Manual to promptly record a receivable for the amounts due.

| <u>FY</u> | <u>Receivable Timely Recorded</u> | <u>Receivable Not Timely Recorded</u> | <u>Could Not Determine *</u> |
|-----------|---|---|----------------------------------|
| 1988 | 0 | 4 | 0 |
| 1989 | <u>2</u> | <u>0</u> | <u>3</u> |
| Total | <u>2</u> | <u>4</u> | <u>3</u> |

* We could not determine when the receivable was recorded in three cases because the information that we obtained from FMO did not indicate the date the receivable was established. The information we obtained indicated the document date, which is the effective date of the order, and not the date the receivable was established.

The four cases where Headquarters FMO did not timely record the accounts receivable, even though they had the settlement document, were Maryland Sand and Gravel (\$6,432), Harvey and Knott (\$350,000), Holder Chemical (\$711,000), and Chisman Creek (\$723,958). The four cases total \$1,791,390.

Improved Reconciliation Procedures Would Help Ensure Receivables Are Recorded

Regular reconciliation of Hazardous Waste Management Division (HWMD) and ORC records with the financial records would serve as an internal control to assure that all settlement documents were forwarded to the FMO and the receivables were recorded. RMDS Chapter 2550D states that the FMO should establish routine procedures with the Superfund Branch Chief and Regional Counsel to regularly reconcile program and Counsel records with the financial records. In addition, the offices are to exchange information on the status of debts, including cases concluded by Department of Justice. Region 3 had the information needed to reconcile program and Counsel records with the financial records, but the reconciliation process had not been formalized.

ORC has its own tracking system for penalty payments, which the region refers to as the "Administrative and Judicial Penalties" tracking system. The Regional Hearing Clerk uses the system to track administrative and judicial enforcement cases. Cases are tracked by defendant name. The system tracks the status of settlement documents, when payments are due, and whether the debt had been paid. However, the Regional Hearing Clerk did not consider it an official tracking system.

The Regional Hearing Clerk was to send a copy of the tracking system report each month to the FMO. However, FMO officials stated on January 3, 1990, that they do not receive the tracking system report on a regular basis. The report can be used to determine whether all settlement documents had been received from

ORC. Formal procedures are needed to ensure that the tracking system is regularly reconciled to the financial records.

* * * * *

The Federal Managers Financial Integrity Act (FMFIA) requires that U.S. General Accounting Office internal control standards be followed when establishing and maintaining systems of internal control. The objectives of an internal control system include that (1) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation, and (2) all revenues and expenditures are recorded and accounted for properly so that accounts and reliable financial reports may be prepared and accountability of assets may be maintained. Specifically, the internal control standards state that transactions and other significant events are to be promptly recorded and properly classified.

Region 3's inconsistent recording of accounts receivable for amounts due to the Superfund Trust Fund was a material weakness in internal controls. OMB Circular A-123 defines a material weakness as a specific instance of noncompliance with FMFIA which would (1) impair the fulfillment of an agency component's mission; (2) deprive the public of needed services; (3) violate statutory or regulatory requirements; or (4) significantly weaken safeguards against waste, loss, unauthorized use or misappropriation of funds. Region 3 meets all these conditions by not recording receivables.

When receivables were not properly recorded, the financial management system does not provide EPA management with timely and accurate financial information. OMB Circular A-127 (A-127) states that a financial management system is to provide useful, timely, reliable, and complete information. A-127 and FMFIA require that an Agency's financial management system provide for:

- Complete disclosure of the financial activities of the agency,
- Adequate financial information for agency management and for formulation and execution of the budget, and
- Effective control over revenue, expenditure, funds, property, and other assets.

Draft Report Recommendations

We recommended that the Regional Administrator, Region 3, take appropriate action to:

1. Direct the Office of Regional Counsel, the Hazardous Waste Management Division, and the Financial Management Office to

ensure that (a) settlement documents are timely forwarded to the Financial Management Office and (b) Office of Regional Counsel's tracking system is regularly reconciled with the financial records.

2. Direct the Financial Management Office to ensure that settlement documents are date stamped as verification of receipt.
3. Perform an internal control review during FY 1990 to determine whether the procedures are being followed and whether they are adequate to ensure that receivables are promptly recorded on the financial records.

Regional Reply to Draft OIG Report

The Region disagreed with our finding. The Region believed that the finding was overstated because it includes those actions that Headquarters was responsible for prior to FY 1989. The Region believed that if the actions prior to FY 1989 are eliminated from the review, no material weakness in Region 3's internal controls would be found. The Region believed that an internal control review is not justified because existing procedures adequately insure the recording and recovery of all Trust Fund receivables.

Auditor's Comments

Notwithstanding the comments made by the Region, we are still of the opinion that the existing procedures were not adequately implemented to ensure that all amounts due for Superfund cost recovery are recorded as accounts receivable. We recognize that the Headquarters Financial Management Division, and not Region 3, was responsible for recording accounts receivable and ensuring payments were collected prior to FY 1989. However, for each year we reviewed, Region 3 was responsible for all other activities, including forwarding settlement documents to financial management. As stated in our report, we found that settlement documents were not consistently forwarded to the FMO. For FY 1989, 2 of 7 (29 percent) settlement documents reviewed were not forwarded to the FMO.

According to Region 3 procedures, settlement documents are to be date stamped by the FMO. As stated in our finding, we found only one settlement document was date stamped by the FMO. Settlement documents need to be date stamped by the FMO as verification of when they are received. U. S. General Accounting Office internal control standards state that documentation of transactions should be complete and accurate and should facilitate tracing the transaction and related information from before it occurs, while it is in process, to after it is completed. Without settlement documents being date stamped by the FMO, we were unable to

determine during our review when they were forwarded to, or received by, the FMO.

We agree that Region 3's procedures, when consistently followed, are adequate to ensure the recording and recovery of all Superfund Trust Fund receivables. In our opinion, the Region's inconsistent implementation of its procedures is a material weakness in internal controls because it significantly weakens safeguards against waste, loss, unauthorized use or misappropriation of funds. We recommended in the draft report that the Regional Administrator ensure that the existing procedures are consistently followed.

To ensure that existing procedures are consistently followed, at a minimum, an alternative internal control review should be performed. An alternative internal control review is defined as a process to determine that the control techniques in an agency component are operating in compliance with OMB Circular A-123. Alternative internal control reviews determine overall compliance and include testing of controls.

Recommendations

We recommend that the Regional Administrator, Region 3, take appropriate action to:

1. Direct the Office of Regional Counsel, the Hazardous Waste Management Division, and the Financial Management Office to ensure that (a) settlement documents are timely forwarded to the Financial Management Office and (b) Office of Regional Counsel's tracking system is regularly reconciled with the financial records.
2. Direct the Financial Management Office to ensure that settlement documents are date stamped as verification of receipt.
3. Perform an alternative internal control review during FY 1990 to determine whether the procedures are being followed to ensure that receivables are promptly recorded on the financial records.

Finding No. 2 - PROMPT ACTION NEEDED TO COLLECT AMOUNTS OWED

Region 3 was not promptly collecting cost recovery amounts owed to the Superfund Trust Fund because of (1) delays in sending accounting data to responsible parties, (2) late payment of amounts due, and (3) delays in notifying responsible parties. These conditions existed primarily because the enforcement personnel in the Superfund Remedial and Removal Branches had not reported all oversight cases for billing to the CERCLA Cost Recovery Section (Cost Recovery Section). Delays in collecting amounts owed resulted in lost interest to the Superfund Trust Fund of \$11,553.

Of the 14 settlement documents reviewed, we found 6 cases (43 percent) where collection of amounts owed was delayed (see Exhibit 1).

| <u>Reason For Delay</u> | <u>Number Of Cases</u> | <u>Lost Interest</u> |
|--------------------------------------|----------------------------|--------------------------|
| Delay in sending accounting data | 3 | \$ 6,134 |
| Late payment | 2 | 3,385 * |
| Delay in notifying responsible party | 1 | <u>2,034</u> |
| Total | | <u>\$11,553</u> |

* The two late payments were collected in FY 1988.
Therefore, Headquarters, not Region 3, was responsible for the collection.

One of most important objectives of the Superfund program is to recover the funds that EPA spends in cleaning up a Superfund site. Recovery may be effected either through negotiation or as a result of legal action against responsible parties. The costs EPA tries to recover may be for (1) past expenditures, (2) future work that EPA will do at the site, or (3) the costs of EPA overseeing cleanup work that the responsible party may perform under contract at the site.

Section 107(a) of the Superfund Amendments and Reauthorization Act (SARA) requires that cost recovery amounts accrue interest at the same rate as investments of the Superfund Trust Fund. The U.S. Treasury Department currently invests Superfund monies in 52-week U.S. Treasury MK Bills that mature in early September of each year. When funds are needed for Superfund activities, MK-Bills are sold and the proceeds are used to pay EPA costs. When funds are received, additional MK-Bills of the same maturity are purchased. The MK-Bill rates for FYs 1987 to 1989 are:

| <u>FY</u> | <u>Interest Rate</u> |
|-----------|----------------------|
| 1987 | 5.63% |
| 1988 | 6.99% |
| 1989 | 8.39% |

Delays In Sending Accounting Data

Accounting data was not promptly sent to the responsible parties in 3 of 6 cases where payments were delayed. See Exhibit 1 for details on each case. Each of the settlement documents were billings for oversight costs.

| <u>Site Name</u> | <u>Billing Date In Order</u> | <u>Actual Billing Date</u> | <u>Elapsed Days</u> |
|--------------------------|--------------------------------------|------------------------------------|-------------------------|
| Shriver's Corner | 01/01/88 | 09/11/89 | 619 |
| Maryland Sand and Gravel | 04/21/89 | * | 257 |
| Saltville Waste Disposal | 01/01/89 | 03/20/89 | 78 |

* Cost not billed as of January 3, 1990.

The lost interest to the Superfund Trust Fund due to delays in collection for these three cases was \$6,134.

Within the Hazardous Waste Management Division, the Cost Recovery Section is responsible for preparing the cost summaries for the billing of oversight costs. The Remedial and Removal Branches are responsible for ensuring that the Cost Recovery Section is notified when oversight billings are needed. At the beginning of each year, Cost Recovery Section requests a list from the Remedial and Removal Branch section chiefs of all orders and decrees which require the payment of oversight costs.

The billing for Shriver's Corner was late because the site was not reported by the Remedial and Removal Branches when the Cost Recovery Section requested a list of all sites which needed oversight billings. The Cost Recovery Section requests during FY 1987 and 1988 were worded in rather general terms. Because the request for orders and decrees with oversight billing provisions was not specific, not all orders and decrees were identified by the Remedial and Removal Branches. Having recognized the problem, the FY 1989 request was more specific and the response improved. Cost Recovery Section became aware of older orders and decrees, like Shriver's Corner, that require billing of oversight costs. Even though the response improved, the Cost Recovery Section still had no assurance that all orders and decrees, which require oversight billings, were being reported by the Remedial and Removal Branches.

In the case of Maryland Sand and Gravel, the settlement document required EPA to send regular billings to the responsible party for oversight costs. Region 3 defines regular billing as the anniversary date of the settlement document. Therefore, a billing should have been sent by April 21, 1989. Maryland Sand and Gravel was not billed as of January 3, 1990, the end of our

fieldwork in Region 3. Cost Recovery Section personnel stated that the billing had been overlooked.

Region 3 recognized the importance of ensuring that oversight costs are promptly billed. Draft procedures outlining the roles and responsibilities of Hazardous Waste Management Division, Financial Management Section, and Office of Regional Counsel had been prepared. However, a tracking system is needed to ensure (1) all orders and decrees, which require oversight billings, are identified and (2) oversight billings are sent out promptly. The draft oversight procedures need to be finalized and signed by the Director, Hazardous Waste Management Division, the Regional Counsel, and the Comptroller to establish accountability for following the procedures.

Late Payment Of Costs Due

Costs due to the Superfund Trust Fund were not collected prior to the due date in 2 of 6 cases where payments were delayed. Since the effective date of the settlement documents was in FY 1988, Headquarters FMO, and not Region 3 FMO, was responsible for the collection. See Exhibit 1 for details of each case.

| <u>Site Name</u> | <u>Due Date</u> | <u>Collection Date</u> |
|--------------------------|-----------------|------------------------|
| Saltville Waste Disposal | 09/15/89 | not collected |
| Harvey & Knott Drum Site | 05/05/88 | 09/29/88 |

The lost interest to the Superfund Trust Fund due to delays in collection for these two cases was \$3,385.

Written Notification Of Effective Date Not Sent

The remaining case, where costs were not timely recovered, was the result of miscommunication between Department of Justice (Justice) and ORC. In the case of Palmerton Zinc Pile, the settlement document was effective October 14, 1988. The first installment of \$50,000 was paid June 8, 1989, six months later. However, the responsible party was not notified for 5 months that the decree had been entered and payment was due. Justice thought ORC notified the responsible party the case had been entered and ORC thought Justice did. Therefore, the responsible party did not know the settlement document had been entered and did not know that costs were due. The lost interest to the Superfund Trust Fund due to the delay in collection for this one case was \$2,034.

* * * * *

Delays in (1) sending accounting data to responsible parties, and (2) collecting amounts due, slows the investment of cost recovery

amounts due to the Superfund Trust Fund. We reviewed \$3,466,103 of costs due. If prompt action was taken to collect the amounts owed, the funds could have been invested by the Superfund Trust Fund at an earlier date and additional interest of at least \$11,553 would have been earned.

Draft Report Recommendations

We recommended that the Regional Administrator, Region 3, require the:

1. Hazardous Waste Management Division, the Office of Regional Counsel, and the Financial Management Section to complete and implement procedures for billing oversight costs.
2. Hazardous Waste Management Division to establish a tracking system to (1) identify all orders and decrees which require oversight billings and (2) promptly issue oversight billings.

Regional Reply to Draft OIG Report

Region 3's response to our draft recommendations was as follows:

1. In FY 1989, representatives from the Office of Regional Counsel, the Hazardous Waste Management Division and the Office of the Comptroller developed written procedures for billing oversight costs. However, the Region is aware that these procedures are in draft form and will be reviewed and finalized during FY 1990.
2. The Region believes that the establishment of another tracking system within the Hazardous Waste Management Division would be duplication of the system currently being developed. The Comprehensive Environmental Response and Liability Information System (CERCLIS) will track oversight billings and ensure that the bill is issued in a timely manner.

Auditor's Comments

The actions outlined by Region 3 in reply to our draft recommendations, when implemented, will substantially correct the deficiencies cited in our draft report. We did not review the tracking system for oversight payments in CERCLIS because it had not been implemented at the time of our review.

Recommendations

We recommend that the Regional Administrator ensure that the planned corrective actions are completed.

SCHEDULE OF SUPERFUND COST RECOVERY COLLECTIONS REVIEWED
AND REASONS FOR LOST INTEREST TO THE SUPERFUND TRUST FUND

| ID | Site Name | Total Value of Settlement Document | Cost Due EPA (1) | Effective Date of Settlement Document (2) | Date Costs Paid | Lost Interest (3) | Note |
|----|---|---|---------------------|--|-----------------------|-------------------------|------|
| 70 | Middletown Road | \$ 300,000 | \$ 300,000 | 03/01/88 | 03/30/88 | | |
| 32 | Harvey & Knott Drum | 350,000 | 70,000 | 04/20/88 | | \$ 1,183 | (4) |
| 42 | Maryland Sand & Gravel | 6,432 | 6,432 | 04/20/88 | 05/26/88 | | |
| 42 | Maryland Sand & Gravel (Oversight) | 35,000(est) | 35,000 | 04/21/89 (not billed) | | 2,011 | (5) |
| 36 | Holder Chemical Corp | 711,000 | 711,000 | 04/29/88 | | | (6) |
| F3 | United Rigging & Hauling | 10,000 | 5,833 | 07/25/88 | | | (7) |
| 37 | Chisman Creek | 723,958 | 723,958 | 08/24/88 | 09/21/88 | | |
| 24 | Saltville Waste Disposal | 456,000 | 456,000 | 09/15/88 | | 2,202 | (8) |
| 24 | Saltville Waste Disposal (Oversight) | 17,604 | 17,604 | | 05/09/89 | 320 | (9) |
| 26 | Palmerton Zinc Pile | 100,000 | 100,000 | 10/14/88 | | 2,034 | (10) |
| 78 | Raymark Industries | 512,500 | 539,205 | 02/21/89 | 04/27/89 | | (11) |
| A3 | Henderson Road | 188,055 | 188,055 | 05/10/89 | 05/23/89 | | |
| F9 | Clark L A & Son | 280,000 | 280,000 | 07/17/89 | 09/15/89 | | |
| D9 | Shriver's Corner (Oversight) | 33,016 | 33,016 | 09/11/89 | 11/24/89 | 3,803 | (12) |
| | Total | <u>\$3,723,565</u> | <u>\$3,466,103</u> | | | <u>\$11,553</u> | |

Notes:

1. This column represents costs owed to EPA as of January 3, 1990.
2. Headquarters was responsible for recording accounts receivable and collecting the payments for settlement documents effective prior to October 1, 1988. Region 3 Financial Management Office was responsible for all settlement documents effective after the date.
3. Lost interest was calculated on uncollected monies from the date costs were due until costs were paid.
4. Payment of \$350,000 for the Harvey & Knott Drum Site was to be paid in installments over 10 years. The first \$35,000 payment was collected September 29, 1988. The second was received on May 8, 1989.
5. The consent decree required regular billing of oversight costs. The billing was to be sent on the anniversary date of the decree, or April 21, 1989. As of January 3, 1990, the end of OIG fieldwork in Region 3, the billing had not been sent. We calculated lost interest due to the delay in oversight billing was \$2,011, based on Region 3's estimated oversight costs of \$35,000.
6. According to the financial management system printout, the account receivable of \$711,000 for past costs for the Holder Chemical Corporation was accurately recorded but not timely established. The account receivable, established on June 15, 1988, was 47 days after the effective date of the settlement document April 29, 1988. No payment had been made for Holder because the responsible party has been in a nursing home and was deemed incompetent. The property is now the only asset of the corporation, which the state has a lien against.
7. The consent agreement for United Rigging & Hauling requires \$10,000 to be paid in 24 monthly installments of \$416.66 each plus interest. As of October 27, 1989, 14 payments totalling \$5,833.24 have been collected. The last collection date was September 18, 1989.
8. The consent decree for Saltville Waste Disposal requires costs of \$456,000 be paid in two installments. The first installment of \$228,000 was collected timely. The second installment was due September 15, 1989. Headquarters was responsible for collecting the payment. The second installment was not collected as of November 15, 1989, the end of OIG fieldwork in Headquarters.

9. The consent decree for Saltville Waste Disposal stated that oversight billings were to be sent on January 1 of each year. The billing for FY 1989 was not sent until March 20, 1989, resulting in lost interest of \$320.
10. The consent decree for Palmerton Zinc, effective October 14, 1988, stated that \$100,000 was to be paid in two installments of \$50,000 each. The payment was due within 60 days, or by December 13, 1988. The payment was not made until June 8, 1989, six months later. The payment was not received promptly because the responsible party was not timely notified of the effective date of the consent decree.

The second installment of \$50,000 was due on October 14, 1989. The payment was received on October 13, 1989.

11. The consent decree for Raymark Industries required \$512,500 costs, plus accrued interest, be paid. The decree stated that the responsible parties had transferred \$1,125,000 between April 1, 1988 and July 1, 1988 to the United States. The money was deposited in an interest bearing escrow account established by the Clerk of the District Court for the Eastern District of Pennsylvania.

Within 10 days of entry of the decree, \$512,500 plus accrued interest was to be paid to the EPA for response costs. The total amount collected was \$539,205, which included \$26,705 interest. The settlement document was effective February 21, 1989. The payment was made on April 27, 1989, about two months later. The collection was not timely because the Court collected the payment and delayed transferring the collection amount to EPA. Lost interest was not computed in this instance because the problem was with Justice and beyond EPA's control.

12. The consent order for the Shriver's Corner Site required oversight billing to be submitted at year end. The billing for calendar year 1987 oversight costs was not timely submitted. Lost interest is calculated from the date the billing should have been made, January 1, 1988, until the date the billing was made, September 11, 1989. The payment was collected November 24, 1989.

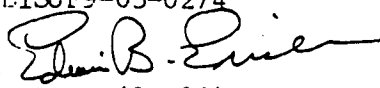
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: Draft Report Audit on Superfund Cost
Recovery Accounts Receivable
Establishment and Collection
Audit Report No. E1SJF9-05-0274

DATE: FEB 20 1990

FROM: Edwin B. Erickson 
Regional Administrator (3RA00)

TO: Anthony C. Carrollo
Divisional Inspector General for Audits
Northern Division

I am transmitting to you the Region's response to the above referenced report on Superfund Cost Recovery receivables. Based on the Audit Management Section's (AMS) review of the attached comments from the Hazardous Waste Management Division and the Office of the Regional Comptroller, the Region's response to the audit report recommendations is as follows:

Conduct an Internal Control Review on the Recording of Receivables

The Region believes that the finding on the Regional recording of accounts receivables is overstated because it includes those actions that Headquarters was responsible for prior to fiscal year 1989.

If those actions are eliminated from the review, no material weakness in Region III's internal controls would be found. The Region believes that an internal control review is not justified because existing procedures adequately insure the recording and recovery of all Trust Fund receivables.

Complete and Implement Procedures for Billing Oversight Costs

In Fiscal Year 1989, representatives from the Office of Regional Counsel (ORC), the Hazardous Waste Management Division and the Office of the Comptroller developed written procedures for billing oversight costs. However, the Region is aware that these procedures are in draft form and will be reviewed and finalized during fiscal year 1990.

Establish a Tracking System Within Hazardous Waste Management Division

The Region believes that the establishment of another tracking system within the Hazardous Waste Management Division would be a duplication of the system currently being developed. The Comprehensive Environmental Response and Liability Information (CERCLIS) will track oversight billings and ensure that the bill is issued in a timely manner.

I hope that these comments have been responsive and will be useful in providing a more accurate description of the report issues, findings and recommendations. If your staff needs further information or clarification, please have them contact Bob Picollo at FTS 597-3900.

Attachments (2)

cc: P. Ronald Gandolfo (3AI00)

DISTRIBUTION

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ATTN: Director, Resource Management Division,
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Director, Financial Management Division (PM-226)

Associate Administrator for Regional Operations (A-101)