



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Compendium of Unimplemented Recommendations as of September 30, 2010

Report No. 11-N-0006

October 26, 2010

Abbreviations

ARRA	American Recovery and Reinvestment Act of 2009
CIO	Chief Information Officer
CSO	Combined Sewer Overflow
EAS	EPA Acquisition System
EPA	U.S. Environmental Protection Agency
FACT	Financing Alternatives Comparison Tool
ICR	Information Collection Rule
IGCE	Independent Government Cost Estimate
IGEMS	Inspector General Enterprise Management System
MATS	Management Audit Tracking System
NCC	National Computer Center
NETI	National Enforcement Training Institute
OA	Office of the Administrator
OAM	Office of Acquisition Management
OAR	Office of Air and Radiation
OARM	Office of Administration Resources Management
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OEI	Office of Environmental Information
OIG	Office of Inspector General
OMB	Office of Management and Budget
ORD	Office of Research and Development
OSWER	Office of Solid Waste and Emergency Response
OW	Office of Water
POTW	Publicly Owned Treatment Works
RCT	Research Coordination Team
RSL	Regional Science Liaison
SAB	Science Advisory Board
SNC	Substantial Non-Compliance
SOP	Standard Operating Procedures
TMDL	Total Maximum Daily Load



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

THE INSPECTOR GENERAL

October 26, 2010

MEMORANDUM

SUBJECT: Compendium of Unimplemented Recommendations as of September 30, 2010
Report No. 11-N-0006

FROM: Arthur A. Elkins, Jr. *Mark Bialek for*
Inspector General

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

Attached is the semiannual Compendium of Unimplemented Recommendations as of September 30, 2010, prepared by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This Compendium fulfills the requirement of the Inspector General Act, as amended, to identify reports containing significant recommendations described in previous Semiannual Reports to Congress on which corrective actions have not been completed.

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

The significance of audit followup, as described by the Office of Management and Budget (OMB) Circular A-50, is enhanced by the public's expectation for greater transparency and a heightened interest by Congress in realizing potential opportunities for improvement in the

Federal Government. The OIG's previous Compendium reports appear to be having the intended effect of increasing Agency awareness and action on unimplemented OIG recommendations.

We selected the unimplemented recommendations listed in this Compendium based on their significance and their status in EPA's Management Audit Tracking System. In addition, some unimplemented recommendations were identified through review by the OIG. Exclusion from the Compendium does not indicate the OIG determined the corrective action to be complete for a recommendation. However, it is a goal of the OIG to verify as many significant recommendations reported as being complete as possible through other reviews.

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

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Introduction

Purpose

The purpose of this Compendium of Unimplemented Recommendations is to highlight for U.S. Environmental Protection Agency (EPA) management significant recommendations that remained unimplemented past the due date agreed upon by EPA and the Office of Inspector General (OIG). In addition, the Compendium satisfies part of Section 5(a) of the Inspector General Act of 1978, as amended, which requires each inspector general to issue semiannual reports to Congress and include “an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed.” This Compendium is being issued in conjunction with the OIG Semiannual Report to Congress for the reporting period April 1, 2010 through September 30, 2010. The OIG intends to issue this Compendium each semiannual reporting period. The Compendium will keep Agency management informed about EPA’s outstanding commitments and its progress in taking agreed-upon corrective actions on OIG recommendations to improve programs and operations.

Background

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

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

The audit management official in the Office of the Administrator, the Office of General Counsel, and each assistant administrator’s or regional administrator’s office, designates an audit followup coordinator for that office. Audit followup coordinators are responsible for quality assurance and analysis of tracking system data. When corrective actions in response to recommendations in an audit report are completed and certified, the Agency may inactivate that report in MATS and it is no longer tracked by the audit followup coordinator. The Agency self-certifies that corrective actions are completed. The Agency is also responsible under the Inspector General Act for

reporting on audit reports for which final corrective action has not been taken one year or more after the Agency's management decision.

This is the fifth edition of the Compendium of Unimplemented Recommendations. It identifies 18 unimplemented recommendations from 15 reports compared to 34 unimplemented recommendations from 18 reports identified in the fourth edition for the period ending March 31, 2010. Of the 18 unimplemented recommendations currently reported, 8 from 6 reports are continuing, and 10 from 9 reports are newly identified. Also, we removed 26 unimplemented recommendations from 14 reports that were included in the previous Compendium. Please note that removal of an unimplemented recommendation does not imply that it was verified as implemented, but rather, that it was reported as being completed or that the target completion date has been revised with OIG approval.

Scope and Methodology

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

We reviewed selected audit and evaluation reports issued by the EPA OIG from October 1, 1997, through March 31, 2010, to identify significant unimplemented recommendations for inclusion in the Compendium. However, we did not identify any significant unimplemented recommendations for Fiscal Years 1997 through 2001. We did not review recommendations from reports without an OIG agreement on the Agency's corrective action plan (Management Decision). A list of these reports can be found in Appendix 2 of the OIG Semiannual Report to Congress.

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

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

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- **Integrity:** Improvement in operational accountability, enforcement of and compliance with laws and regulations, and security of resources for public confidence

The following EPA offices have unimplemented recommendations listed in this Compendium:

Office of Administration and Resources Management (OARM)
Office of Air and Radiation (OAR)
Office of Enforcement and Compliance Assurance (OECA)
Office of Environmental Information (OEI)
Office of Water (OW)
Region 3
Region 8

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

Unimplemented Recommendations

Action Office: OARM
Report Title: EPA Can Improve Its Preparation and Use of Independent Government Cost Estimates for Superfund Contracts
Report No.: 10-P-0065
Date Issued: 2/16/2010

Report Summary

EPA can improve its Superfund Independent Government Cost Estimates (IGCEs) and the corresponding cost estimating process. In 30 of the 42 cases we reviewed, EPA did not sufficiently document information in its Superfund IGCEs. Additionally, in 9 of the 42 cases, EPA did not update the IGCEs when significant changes occurred. In 8 of the 42 cases, EPA program staff accepted the contractor's estimate without evaluating why it differed from the IGCE. Finally, in some cases EPA did not prepare an IGCE for actions with a potential value in excess of \$100,000, the Federal Acquisition Regulation threshold for simplified acquisitions. These actions are contrary to the Government Accountability Office Cost Estimating and Assessment Guide and the EPA Contracts Management Manual. They occurred because there is an overall lack of emphasis by EPA management on the preparation and use of IGCEs. EPA limits its ability to negotiate a fair and reasonable price when it does not have a well-supported IGCE. The report was issued to OARM and the Office of Solid Waste and Emergency Response (OSWER). OSWER has no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 2-5: We recommend that the assistant administrator for OARM and the assistant administrator for OSWER instruct the Office of Acquisition Management (OAM) and the Superfund program office to provide training to Superfund program staff on IGCE tools and databases, as well as OAM and Superfund IGCE guidance.

Status: OARM agreed that it would work closely with OSWER to provide training to the Superfund program and OAM staff on the IGCE guidance by September 30, 2010.¹

¹ Subsequent to the close of field work, OARM updated MATS to reflect a completion date of July 2010 for this corrective action.

Action Office: OW
Report Title: EPA Needs Definitive Guidance for Recovery Act and Future Green Reserve Projects
Report No.: 10-R-0057
Date Issued: 02/01/10

Report Summary

EPA has not provided clear and comprehensive guidance to states for how to determine the eligibility of green reserve projects. EPA was promoting a green approach to wastewater and drinking water programs for at least a year prior to the enactment of the American Recovery and Reinvestment Act of 2009 (ARRA). Despite that experience, EPA did not develop and issue clear and comprehensive guidance in time to meet many of the states' needs. For example, EPA did not provide guidance on how to solicit and select green projects until after many states had finished doing so. Some states felt the need to resolicit for green projects while others did not.

EPA's guidance and subsequent updates have not addressed important aspects of project selection. At the time of this review, EPA had not established water and energy efficiency threshold ranges for many types of green projects. Also, the Agency still had not provided sufficient information to states on how to develop business case justifications for noncategorical projects. Moreover, changes over time in EPA's guidance for how to determine project eligibility resulted in EPA regions applying different standards for approving states' green project proposals.

EPA cannot provide a reasonable assurance that its green reserve projects will meet Congress's objectives without issuing guidance that sets definitive expectations. Additionally, future green funding may face similar issues.

Unimplemented Recommendations

Recommendation 1: We recommend that the assistant administrator for OW develop and revise guidance, information, and, as appropriate, specific criteria that states can employ to assist them in identifying projects qualifying for funding from the state's green project reserve.

Status: OW indicated that it completed multiple actions within the 12-month deadline of ARRA enactment that were successful in achieving approximately 30 percent Green Project Reserve funding for both Clean Water and Drinking Water State Revolving Funds, well above the 20 percent requirement contained in the statute. OW also developed guidance for regions and states to the Green Project Reserve requirements of EPA's FY 2010 appropriation and issued additional guidance on business cases provided in the appropriation. OW planned to develop eight example business cases for the Drinking Water State Revolving Fund and two fact sheets by July 2010.²

² Subsequent to the close of field work, OW informed us that the business cases are being finalized and will be released before the Council of Infrastructure Financing Authorities conference in November 2010. OW also indicated that four fact sheets are being drafted or reviewed.

Action Office: OARM
Report Title: Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privilege
Report No.: 10-P-0002
Date Issued: 11/7/09

Report Summary

We found an unauthorized, full-time work-at-home arrangement that existed for 9 years and allowed a National Enforcement Training Institute (NETI) employee to work from home in Ohio instead of an office in Washington, DC. The employee and position were originally located in the Washington area and the employee later moved as the result of a spouse transfer. In our opinion, NETI's actions are for the benefit of a single employee as opposed to being primarily in the interest of the government, and this action was not equitably provided within NETI. EPA has no established or consistent policy, procedure, or criteria for granting full-time work-at-home privilege. Full-time work-at-home opportunity appears to be preferentially available to only a few employees. Neither OARM nor NETI has any written documentation showing the government interest in or appropriateness of making this arrangement, or that senior OARM officials approved this action.

Office of Human Resources personnel (the associate deputy director of program management and communications and the Agency telework coordinator) stated that EPA became aware of similar arrangements due to research it performed for an unrelated court case. OARM raised concerns about equity in such arrangements and believes this must be brought under control. To date, OARM has not corrected this situation.

Unimplemented Recommendations

Recommendation 2(a): We recommend that the assistant administrator for OARM establish and implement Agency policy for all EPA employees that clearly articulates the process and procedures for changing an employee's duty station to a location geographically separate from the position of record. This policy should include eligibility criteria for positions and personnel, records management requirements, periodic review and reauthorization, verification of correct pay rate (locality and grade), and specific approvals required from initial submission to final approval to ensure equity. The policy should require the assistant administrator for OARM to be the final decision authority for all geographically separate duty station locations authorizations except those duty station location changes initiated within OARM.

Status: OARM has been considering the connections between alternate duty location policy parameters and the Agency's telework policy. OARM's analysis suggests that there are compelling advantages to addressing the two policies in an integrated fashion. The agreed-to date for completing a policy addressing alternate duty location was March 31, 2010.

Recommendation 2(b): We recommend that the assistant administrator for OARM identify and review all existing arrangements of full-time work-at-duty station separate from the position of

record, including the situation that was the subject of this review, and bring each of these arrangements into compliance with implemented EPA policy.

Status: OARM planned to identify and review each situation where employees work at a duty station separate from the position of record to determine the most appropriate next steps, working to bring each case into compliance with the policy mentioned in 2(a). OARM agreed to complete this action within 6 months of the final promulgation of the new policy. The agreed-to completion date was September 30, 2010.

Action Office: OW
Report Title: EPA Needs to Accelerate Adoption of Numeric Nutrient Water Quality Standards
Report No.: 09-P-0223
Date Issued: 08/26/2009

Report Summary

EPA's 1998 National Strategy and Plan to promote state adoption of nutrient water quality standards (which better protect aquatic life and human health) have been ineffective. In 1998, EPA stated that a critical need existed for improved water quality standards, given the number of waters that were impaired from nutrients. In the 11 years since EPA issued its strategy, half the states still had no numeric nutrient standards. States have not been motivated to create these standards because implementing them is costly and often unpopular with various constituencies. EPA has not held the states accountable to committed milestones. The current approach does not assure that states will develop standards that provide adequate protection for downstream waters. Until recently, EPA has not used its Clean Water Act authority to promulgate water quality standards for states.

EPA cannot rely on the states alone to ensure that numeric nutrient standards are established. EPA should prioritize states/waters significantly impacted by excess nutrients and determine whether it should set the standards. EPA also needs to establish effective monitoring and measures so that accurate program progress is reported. This will assist EPA management in program decisionmaking.

Unimplemented Recommendations

Recommendation 2-1: We recommend that the assistant administrator for OW select significant waters of national value which need numeric nutrient water quality standards to meet the requirements of the Clean Water Act.

Status: OW developed a list of selection factors to consider when identifying and prioritizing states and waters that need numeric nutrient water quality standards to meet the requirements of the Clean Water Act. OW is developing a Nutrient Screening Tool that includes state-specific data for each factor so that EPA can apply these factors to compare states on a national basis with regard to the risk and impact of nutrient impairment and a state's progress towards mitigating nitrogen and phosphorus pollution. The tool will help EPA to evaluate whether numeric nutrient criteria are necessary for a given state and to prioritize states for possible Clean Water Act section 303(c) determinations. OW also agreed to assess availability of resources and determine the number of evaluations and possible determinations that can be funded. The agreed-to completion date was May 31, 2010. Additional time was needed to refine the selection factors and to collect and verify the state data. A meeting with the OW deputy assistant administrator for approval of the tool and assessment of resources is scheduled for October 25, 2010.

Action Office: OARM
Report Title: EPA Should Delay Deploying Its New Acquisition System until Testing Is Completed
Report No.: 09-P-0197
Date Issued: 07/20/09

Report Summary

OAM did not comply with EPA's System Life Cycle Management policy and procedure while developing the new EPA Acquisition System (EAS). OAM did not fully develop the system's requirements documents during the requirements phase and requirements were incomplete. Test scripts were not developed to prove that the system fulfilled all requirements and ensure that the system would function as required. Although the EAS Project Manager developed a Draft Master Test Plan that contained testing procedures, OAM management never approved, implemented, and enforced this plan.

OAM management did not provide the oversight, authority, and support necessary to ensure the EAS development project complied with EPA's System Life Cycle Management policy and procedure. Because OAM had not completed the steps needed to reasonably ensure that EAS would meet EPA's business needs if implemented as planned by June 29, 2009, OAM does not have a sound basis for deploying EAS as scheduled. More management emphasis is needed to ensure the system development control environment achieves the desired results and the end product meets EPA's needs.

Unimplemented Recommendations

Recommendation 1: We recommend that the assistant administrator for OARM identify and document all system requirements, including functional, technical, security, and EPA-specific requirements, in the EAS Requirements Document(s).

Status: OARM planned to update the Requirements Baseline with approved new and detailed requirements and update the Requirements Traceability Matrix with new detailed requirements from updated Requirements Baseline. The agreed-to completion date was October 21, 2009.³

³ Subsequent to the close of field work, OARM updated MATS to reflect a completion date of January 15, 2010, for this corrective action.

Action Office: Region 8
Report Title: Oglala Sioux Single Audits—Corrective Actions Taken but Improvements Needed in Resolving Costs
Report No.: 08-P-0213
Date Issued: 07/28/2008

Report Summary

EPA Region 8 continues to take actions to resolve the internal control findings in the single audit reports. Region 8 identified the Oglala Sioux Tribe as high risk, requested a corrective action plan, and reviewed the tribe's accounting documentation. However, Region 8 did not monitor implementation of the corrective actions in MATS until all actions were completed. As a result, the Agency was not accurately reporting on its status of implementing corrective actions resulting from audit reports.

Region 8 did not obtain sufficient documentation to support resolving \$2.5 million in questioned costs. The documentation for resolving the questioned costs was not from the Oglala Sioux Tribe's official accounting system and did not reconcile to the costs claimed. Region 8 did not resolve these issues before concluding that the tribe did incur the costs. Without sufficient documentation to support resolving questioned costs, the region cannot ensure those costs were allowable under the EPA grants.

Unimplemented Recommendations

Recommendation 1: We recommend that the Region 8 administrator track the remaining corrective action that the Oglala Sioux Tribe has not implemented in MATS, or submit a revised corrective action plan to the OIG for evaluation.

Status: Region 8 agreed to arrange for ongoing training and technical assistance for the accounting staff and to establish a line item in indirect cost budget for internal auditing services. Region 8 agreed to track progress on these actions in MATS and the agreed-to completion dates for these two actions were December 31, 2006, and September 30, 2006, respectively.

Action Office: OECA
Report Title: EPA Needs to Track Compliance with Superfund Cleanup Requirements
Report No.: 08-P-0141
Date Issued: 04/28/2008

Report Summary

According to EPA's Superfund information system, there were 3,397 active Superfund enforcement instruments to ensure cleanups at NPL sites as of September 30, 2007. Yet, EPA does not nationally compile or track data on substantial non-compliance (SNC) with the terms or requirements of these instruments. Therefore, we were not able to fully determine whether the regions have resolved Superfund instrument violations consistent with criteria and authorities. In 2000, EPA recognized it needed to improve in this area. It issued an internal report recommending that the regions improve their data on the compliance status of Superfund enforcement instruments and responses to non-compliance. However, EPA has not implemented this recommendation. Consequently, the Agency lacks the internal controls necessary to monitor compliance with Superfund instruments nationally.

In a limited review of EPA regions' enforcement records, we found that two regions' enforcement actions, in 12 instances of SNC, were consistent with EPA guidance and authorities. While the regions took appropriate actions to address these 12 violations, Region 5 had not established necessary and enforceable requirements to address contamination from the Muskego Landfill Site, in Waukesha County, Wisconsin. The report was issued to OECA and Region 5. Region 5 has no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 4: We recommend that the assistant administrator for OECA establish parameters or metrics that indicate an acceptable range of performance or circumstances requiring explanation.

Status: OECA will establish a metric for the range of acceptable performance and a threshold for when regions will be required to substantiate why the SNC threshold was exceeded. OECA will pull data to evaluate the regions mid-year. The agreed-to completion date for the mid-year evaluation was April 30, 2010. Subsequent to the due date, OECA recognized that it needed more time and extended the completion date to October 31, 2010, without the required OIG approval.

Action Office: Region 3
Report Title: Despite Progress, EPA Needs to Improve Oversight of Wastewater Upgrades in the Chesapeake Bay Watershed
Report No.: 08-P-0049
Date Issued: 01/08/2008

Report Summary

Nutrient overload has been identified as the primary cause of water quality degradation within the Chesapeake Bay. Wastewater treatment facilities are responsible for approximately 20 percent of nutrient discharges into the Bay. At the request of a United States senator for the State of Maryland, the OIG sought to determine how well EPA is assisting its Chesapeake Bay partners in cleaning up the bay. This report evaluates the progress in controlling discharges from wastewater treatment facilities. We found that Chesapeake Bay wastewater treatment facilities risk not meeting the 2010 deadline for nutrient reductions if key facilities are not upgraded in time.

Unimplemented Recommendations

Recommendation 2-4: We recommend that the EPA Region 3 regional administrator promote awareness of and use of the Financing Alternatives Comparison Tool (FACT) and other financial analysis tools within the Chesapeake Bay community.

Status: Region 3 planned to continue to develop and implement webcasts on FACT for states and grantees, streamline the FACT to make it easier to use for local governments, and expand the existing user guide. Region 3 reports that FACT is complete and the planned release of the user guide is October 14, 2010. The OIG approved two extensions to the original completion date of October 1, 2008. The agreed-to completion date for the user guide was August 31, 2010.⁴

⁴ Subsequent to the close of field work, Region 3 informed us that it completed the FACT manual on October 14, 2010.

Action Office: OW
Report Title: Total Maximum Daily Load Program Needs Better Data and Measures to Demonstrate Environmental Results
Report No.: 2007-P-00036
Date Issued: 09/19/2007

Report Summary

EPA does not have comprehensive information on the outcomes of the Total Maximum Daily Load (TMDL) program nationwide, nor national data on TMDL implementation activities. EPA and states are responsible for implementing point source TMDLs; however, EPA cannot identify all of the permitted dischargers that should receive or have received wasteload allocations. Measuring nonpoint source TMDL implementation is difficult because EPA does not have statutory authority to regulate nonpoint sources and it is highly dependent on state and local stakeholders. EPA's lack of information prevents the Agency from determining the extent to which TMDLs are restoring impaired waters and whether TMDL implementation activities are occurring in a timely manner.

EPA has begun to take steps to measure program results and improve program data, sponsored several studies of TMDL implementation, and is studying additional TMDL results measures. Developing meaningful measures is challenging; however, EPA needs to provide more management direction to improve its ability to assess how well this critical program is functioning. The TMDL and performance measures we reviewed do not provide clear and complete metrics of the program's accomplishments.

Unimplemented Recommendations

Recommendation 1-2: We recommend that the assistant administrator for OW demonstrate that TMDLs are being implemented by annually reporting on the progress of TMDL implementation activities completed nationwide including the number of TMDLs:

- that have all wasteload allocations incorporated into NPDES permits
- that have implemented load allocations through at least one best management practice, funded through the Section 319 Program
- for which implementation data are not available to EPA

Status: According to OW, it has:

- Reported on TMDL implementation rates, including point source permits and nonpoint source best management practices, through a statistical study covering EPA Region 5.
- Completed development of a national statistical study design to assess TMDL implementation rates.
- Queried EPA data systems and issued its first annual national report on the three metrics specified in 1-2.
- Produced a synthesis paper covering the findings from multiple implementation-related studies.

OW also planned to complete the following corrective actions:

- Development of an information collection rule (ICR) that covers assessments of TMDL implementation; initiate national sample-based assessment upon ICR approval.
- Complete a national sample-based assessment of TMDL implementation rates.

The agreed-to completion date for these actions was December 31, 2009. OW met with the OIG on September 15, 2010, to discuss waiving or modifying these final two corrective actions due to a change in circumstances that reduces the value and appropriateness of these actions. OW believes that the TMDL implementation has changed markedly due to its completion of several studies that collectively provide an understanding of TMDL implementation that was nonexistent when they proposed the corrective action. Also, OW believes the national survey of implementation would now be of negligible value as well as a major expense approaching \$700,000. This national survey corrective action, and the related ICR corrective action it would require, no longer would produce findings of unique value and importance commensurate with cost. Alternative corrective actions are under discussion between the OIG and the TMDL program, and the TMDL program is awaiting an OIG decision regarding the proposal.

Action Office: OEI
Report Title: EPA Needs to Strengthen Financial Database Security Oversight and Monitor Compliance
Report No.: 2007-P-00017
Date Issued: 03/29/2007

Report Summary

The OIG completed this audit to determine whether the EPA (1) implemented and maintained database hardware and software in accordance with EPA policy requirements; and (2) secured critical financial information by restricting access to high-level database functions, such as database administrator authorities.

During the examination, the OIG discovered weaknesses in how EPA offices (1) monitor databases for known security vulnerabilities, (2) communicate the status of critical system patches, and (3) monitor the use of and access to database administrator accounts and privileges. These weaknesses exist because EPA had not implemented security processes to (1) actively monitor systems that share data with the Integrated Financial Management System, (2) share and collect information on the implementation of critical system patches, and (3) effectively manage access controls. Without these processes, the integrity of critical data in key Office of the Chief Financial Officer (OCFO) systems could be undermined. As a result, OCFO cannot ensure that the integrity of the data it provides to senior Agency officials is adequately protected. The report was issued to OEI, OCFO, and Office of Research and Development (ORD). However, OCFO and ORD have no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 4: OIG recommended that director of the Office of Technology Operations and Planning within OEI strengthen, formalize, and evaluate the effectiveness of the followup procedures for obtaining complete responses from program and regional offices regarding high-level critical system patch alerts.

Status: OEI planned to:

- (1) Update Computer Security Incident Response Capability internal standard operating procedures (SOP) to document the process that will be used to track and report EPA regions/program offices' achievement of 90 percent or greater for critical patches within two weeks of alert notification of system patches by September 30, 2008.
- (2) Communicate via e-mail and Information Security Officer conference call(s) revised internal SOP process modifications to respective parties and advise on responsibilities and effective date by November 15, 2008.
- (3) Provide Technology Information Security Staff with a summary critical patch status report reflecting regions/program offices that have not achieved 90 percent or greater for critical patches within 2 weeks of initial alert by November 15, 2008.
- (4) Escalate summary reports to appropriate EPA management for immediate resolution or agreed-to course of action and time frame to effectively mitigate identified vulnerability by January 15, 2009.

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The OIG identified this recommendation as unimplemented in Report No. 10-1-0029, *Audit of EPA's Fiscal 2009 and 2008 (Restated) Consolidated Financial Statements*, dated November 16, 2009.⁵

⁵ Subsequent to the close of field work, OEI submitted a revised corrective action plan with new milestone dates for this recommendation to the OIG for approval.

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

Report Summary

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

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

As a result of these weaknesses, EPA is exposed to greater risk since its mainframe system software could potentially be compromised.

Unimplemented Recommendations

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

Status: OEI reported in MATS that resource challenges, including human resource and acquisition resource alignments, caused the original scheduled Agency Information Security Procedural Handbook to be delayed. Dedicated EPA staff have been assigned and a contract has been awarded. The agreed-to completion date for this corrective action was September 18, 2008.

As an interim stopgap while development of the handbook was being planned, the EPA Chief Information Officer (CIO) issued CIO Policy Transmittal 08-005, *Agency Network Security Policy*, on November 11, 2007. This policy provided the Agency with specific references to various National Institute of Standards and Technology publications. OEI plans to provide the Draft Agency Network Security Policy to the Quality and Information Council for approval and voting on November 30, 2009.⁶

⁶ On October 13, 2010, OEI submitted a revised corrective action plan with intermediate steps and new milestone dates to the OIG. The OIG has approved the plan. Corrective action is now scheduled to be completed by March 30, 2012.

Action Office: OW
Report Title: More Information Is Needed on Toxaphene Degradation Products
Report No.: 2006-P-00007
Date Issued: 12/15/2005

Report Summary

Toxaphene in the environment changes, or degrades. The resulting degradation products are different from the original toxaphene in chemical composition and how they appear to testing instruments, so they could go unreported. The analytical methods EPA uses to identify and measure toxaphene are not designed to identify toxaphene degradation products. However, a new testing method used by others specifically tests for toxaphene degradation products. We believe EPA should validate, approve, and use this method. Certain toxaphene degradation products accumulate inside people. Although studies indicate that some of these degradation products may be harmful, more research is needed to determine how much of a risk these products pose to people. The report recommendations were reported to OA, OW, OSWER, and ORD. OA, OSWER, and ORD have no past-due corrective actions recorded in MATS.

Unimplemented Recommendations

Recommendation 2: We recommend that the administrator direct the assistant administrators for ORD, OW, and OSWER to arrange for specific research into the dangers of tumors (i.e., cancer) and of harm to embryos posed principally by a mixture of toxaphene congeners and metabolites found in fish.

Status: OW anticipated completing the third Contaminant Candidate List by August 31, 2009. Corrective action is past due for completion.⁷

⁷ OW certified that all agreed-to corrective actions have been completed as of October 8, 2010.

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

Report Summary

Title V of the Clean Air Act, designed to reduce violations and improve enforcing air pollution laws for the largest sources of air pollution, requires that all major stationary sources of air pollutants obtain a permit to operate. More than 17,000 sources are subject to Title V permit requirements. Our analysis identified concerns with five key aspects of Title V permits:

(1) permit clarity, (2) statements of basis, (3) monitoring provisions, (4) annual compliance certifications, and (5) practical enforceability. One finding in particular relates to compliance certifications and wording on credible evidence. When EPA amended the rule on continuous or intermittent compliance, a key clause on credible evidence was inadvertently left out.

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

Unimplemented Recommendations

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

Status: Based on recommendations from the Clean Air Act Advisory Group Task Force on Title V Implementation, the Office of Air Quality Planning and Standards has begun developing a guidance document that will include, among other topics, guidance on compliance certifications. However, as of September 30, 2010, EPA had not submitted a formal action plan, stating how it plans to address this recommendation, to the OIG for approval.⁸

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

Status: EPA did not concur with this recommendation, and it remained unresolved as of September 30, 2010. The Agency met with the OIG in July 2009 and is providing additional information. The OIG believes this recommendation is key to knowing the

⁸ OAR submitted a proposed corrective action plan for Recommendation 2-1 to the OIG on October 14, 2010. The OIG is in the process of reviewing this plan for approval.

basis of the permittee's reported compliance with the terms and conditions of its Title V permit that underlies its annual compliance certification.⁹

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

Status: OAR plans to work with the regions to disseminate information about the positions EPA has taken on statements of basis in response to citizens programs and permit petitions. OAR also intends to develop a plan for identifying and sharing with permitting agencies those statements of basis that represent "best practices." This effort is planned to be included in guidance documentation addressing recommendation 2-1. However, as of September 30, 2010, EPA had not submitted a formal action plan, stating how it plans to address this recommendation, to the OIG for approval.¹⁰

⁹ OAR submitted a proposed corrective action plan for Recommendation 2-2, which concurred with the recommendation, to the OIG on October 14, 2010. The OIG is in the process of reviewing this plan for approval.

¹⁰ OAR submitted a proposed corrective action plan for Recommendation 2-3 to the OIG on October 14, 2010. The OIG is in the process of reviewing this plan for approval.

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

Report Summary

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

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

Unimplemented Recommendation

Recommendation 4-1: We recommend that the acting assistant administrator for OW direct staff to develop a long-term strategy to identify the data it needs for developing pretreatment results-based measurements; determine the resources necessary to carry out the strategy; and gain the support of other Agency, state, and POTW staff to carry out the strategy.

Status: OW agreed to request information on databases used by the EPA regions and states to store information regarding POTW pretreatment program performance. Through the Permitting for Results process, OW will compile information regarding current data systems used to store pretreatment data at the EPA regional and state level. OW intends to use this information to identify inaccurate data and target data correction in the Permit Compliance System. Both of these activities are crucial to facilitate migration and retention of data as we transition to the Integrated Compliance Information System. Once these efforts are complete, OW will be able to determine a long-term strategy based on data availability and resources, which should ultimately assist it in developing pretreatment result-based measurements. The agreed-to completion date for this corrective action was September 30, 2007.¹¹

¹¹ Subsequent to our field work, OW informed us that corrective action should be completed by April 2011 due to delays in the implementation of the Integrated Compliance Information System.

Action Office: OW
Report Title: Wastewater Management: Controlling and Abating Combined Sewer Overflows
Report Number: 2002-P-00012
Date Issued: 08/26/2002

Report Summary

Combined sewer overflows (CSOs) are the total discharges into water bodies of untreated domestic, commercial, industrial waste, wastewater, and storm water runoff. CSOs can adversely affect the health of humans, animals, and aquatic organisms, as well as cause beach closings and fishing and recreational restrictions. We found that many communities do not as yet have the data to determine the effect of CSO controls on water quality. Most communities were only monitoring the number, volume, and duration of CSO discharges, and did not have data on the effect CSO controls were having on the quality of receiving waters, as EPA does not require monitoring until completion of CSO projects. Consequently, it could not be determined until it was too late whether each CSO project being undertaken was a wise investment of taxpayers' dollars.

Unimplemented Recommendation

Recommendation 5-1: We recommend that the assistant administrator for OW work with CSO permitting authorities and communities to assure they negotiate and establish the proper level of interim monitoring of CSO efforts to determine the impact of the project on water quality.

Status: OW agreed to initiate an effort at EPA headquarters to develop a compilation of the monitoring approaches that are or may be used in different situations. This compilation will help permit writers develop appropriate monitoring expectations for those permittees that have completed construction of their planned CSO controls. OW has developed guidance for developing and conducting postconstruction water quality monitoring programs that can be used to verify compliance with water quality standards, as well as to ascertain the effectiveness of CSO controls. This guidance was reviewed by OW's regional offices and revised to reflect their comments. The guidance, while still in draft, is available for use. OW intends to finalize the CSO Monitoring Guidance by September 30, 2011, as needed based on additional comments received and as funding becomes available to make any needed changes. The agreed-to completion date was September 30, 2009.

***OIG Reports with
Unimplemented Recommendations
by Program Office
as of September 30, 2010***

OAR

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

OARM

10-P-0065 EPA Can Improve Its Preparation and Use of Independent Government Cost Estimates for Superfund Contracts

10-P-0002 Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privileges

09-P-0197 EPA Should Delay Deploying Its New Acquisition System until Testing Is Completed

OECA

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

OEI

2007-P-00017 EPA Needs to Strengthen Financial Database Security Oversight and Monitor Compliance

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

OW

10-R-0057 EPA Needs Definitive Guidance for Recovery Act Future Green Reserve Projects

09-P-0223 EPA Needs to Accelerate Adoption of Numeric Nutrient Water Quality

2007-P-00036 Total Maximum Daily Load Program Needs Better Data and Measures to Demonstrate Environmental Results

2006-P-00007 More Information Is Needed on Toxaphene Degradation Products

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

2002-P-00012 Wastewater Management: Controlling and Abating Combined Sewer Overflows

Region 3

08-P-0049 Despite Progress, EPA Needs to Improve Oversight of Wastewater Upgrades in the Chesapeake Bay Watershed

Region 8

08-P-0213 Oglala Sioux Single Audits—Corrective Actions Taken but Improvements Needed in Resolving Costs

Appendix B

***Unimplemented Recommendations:
Current Compendium Compared to 04/28/10 Compendium***

Continuing Unimplemented Recommendations

- 09-P-0197 EPA Should Delay Deploying Its New Acquisition System until Testing Is Completed **(Recommendation 1)**
- 2007-P-00036 Total Maximum Daily Load Program Needs Better Data and Measures to Demonstrate Environmental Results **(Recommendation 1-2)**
- 2006-P-00007 More Information Is Needed on Toxaphene Degradation Products **(Recommendation 2)**
- 2005-P-00010 Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to Be Fully Realized **(Recommendations 2-1, 2-2, 2-3)**
- 2004-P-00030 EPA Needs to Reinforce Its National Pretreatment Program **(Recommendation 4-1)**
- 2002-P-00012 Wastewater Management: Controlling and Abating Combined Sewer Overflows **(Recommendation 5-1)**

New Unimplemented Recommendations

- 10-P-0065 EPA Can Improve Its Preparation and Use of Independent Government Cost Estimates for Superfund Contracts **(Recommendation 2-5)**
- 10-R-0057 EPA Needs Definitive Guidance for Recovery Act and Future Green Reserve Projects **(Recommendation 1)**
- 10-P-0002 Review of Hotline Complaint on Employee Granted Full-Time Work-at-Home Privileges **(Recommendations 2a, 2b)**
- 09-P-0223 EPA Needs to Accelerate Adoption of Numeric Nutrient Water Quality **(Recommendations 2-1)**
- 08-P-0213 Oglala Sioux Single Audits—Corrective Actions Taken but Improvements Needed in Resolving Costs **(Recommendation 1)**
- 08-P-0141 EPA Needs to Track Compliance with Superfund Cleanup Requirements **(Recommendation 4)**
- 08-P-0049 Despite Progress, EPA Needs to Improve Oversight of Wastewater Upgrades in the Chesapeake Bay Watershed **(Recommendation 2-4)**
- 2007-P-00017 EPA Needs to Strengthen Financial Database Security Oversight and Monitor Compliance **(Recommendation 4)**
- 2007-P-00008 EPA Could Improve Controls Over Mainframe System Software **(Recommendation 9)**

Removed Unimplemented Recommendations

Note: Removal of an unimplemented recommendation does not imply that it was verified as implemented, but rather, that it was reported as being completed or that the target completion date has been revised with OIG approval.

09-P-0242	Contractor Invoice Internal Controls Need Improvement (Recommendations 2-1, 2-2, 2-4, 3-1, 3-2)
09-P-0232	EPA's Office of Research and Development Could Better Use the Federal Managers' Financial Integrity Act to Improve Operations (Recommendation 2-3)
09-P-0229	EPA Should Stop Providing Estimates of Total Labor Hours to Contractors (Recommendations 1, 2)
09-P-0223	EPA Needs to Accelerate Adoption of Numeric Nutrient Water Quality Standards Results of Technical Network Vulnerability Assessment: EPA's Research Triangle Park Campus (Recommendations 2-3, 2-4, 2-5)
09-P-0203	EPA Should Use FMFIA to Improve Programmatic Operations (Recommendation 3)
09-P-0197	EPA Should Delay Deploying Its New Acquisition System until Testing is Completed (Recommendations 2, 3, 4)
09-P-0089	EPA Needs a Comprehensive Research Plan and Policies to Fulfill its Emerging Climate Change Role (Recommendations 3-1, 3-3, 3-4, 3-5)
08-P-0266	EPA Assisting Tribal Water Systems but Needs to Improve Oversight (Recommendation 2-3)
08-P-0141	EPA Needs to Track Compliance with Superfund Cleanup Requirements (Recommendation 3)
08-1-0032	Audit of EPA's Fiscal 2007 and 2006 (Restated) Consolidated Financial Statements (Recommendation 18)
2007-P-00027	Overcoming Obstacles to Measuring Compliance: Practices in Selected Federal Agencies (Recommendation 2-1)
2006-P-00013	EPA Can Better Manage Superfund Resources (Recommendation 2-3)
2006-P-00009	Opportunities to Improve Data Quality and Children's Health through the Food Quality Protection Act (Recommendation 4-1)
2005-P-00010	Substantial Changes Needed in Implementation and Oversight of Title V Permits If Program Goals Are to be Fully Realized (Recommendations 3-1)