



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

EPA Needs to Improve Management of the Cross-Media Electronic Reporting Regulation Program in Order to Strengthen Protection of Human Health and the Environment

Report No. 14-P-0143

March 21, 2014



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Abbreviations

AG	Attorney General
CFR	Code of Federal Regulations
CROMERR	Cross-Media Electronic Reporting Regulation
EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
IT	Information Technology
OEI	Office of Environmental Information
OGC	Office of General Counsel
OIC	Office of Information Collection
OIG	Office of Inspector General
OMB	Office of Management and Budget
PSM	Program and Stakeholder Management
TRC	Technical Review Committee

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) Cross-Media Electronic Reporting Regulation (CROMERR) specifies the requirements for states, tribes and local governments that operate delegated programs to accept electronic reporting, including electronic signatures, from regulated facilities under most environmental regulations. Once a system is put in place that satisfies the requirements of CROMERR, regulated facilities can file electronic reports instead of paper reports. This will reduce the amount of paper created and transferred and, thus, reduce the cost of reporting and compliance monitoring. This initiative ultimately helps the EPA strengthen its enforcement of regulations to protect human health and the environment.

This report addresses the following EPA themes:

- *Embracing EPA as a high performing organization.*
- *Working toward a sustainable future.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2014/20140321-14-P-0143.pdf

EPA Needs to Improve Management of the Cross-Media Electronic Reporting Regulation Program in Order to Strengthen Protection of Human Health and the Environment

What We Found

The EPA lacks documented procedures that reflect current operations of the CROMERR program. Such procedures are an integral component of an effective management control program as outlined in Office of Management and Budget Circular A-123. While CROMERR applications require State Attorney General (or the chief administrative official in the case of tribes and local governments) approval, the EPA lacks processes to ensure approvals from designated officials. The EPA has neither implemented monitoring activities to verify a CROMERR system's functionality before and after approval nor implemented processes to ensure CROMERR applications are completed, reviewed and approved within required time frames.

An absence in management controls could lead the EPA to receive electronic documents that are unacceptable in administrative or judicial enforcement proceedings.

The EPA had not made it a priority to keep procedures current for implementing CROMERR business practices. Many of the noted deficiencies could have been averted with management emphasis. We noted that 20 percent of the reviewed CROMERR applications lacked support for State Attorney General determinations. We noted that one state changed its CROMERR process without notifying the EPA and another implemented its CROMERR application differently than what the EPA approved. Without current documented business practices, the EPA increases its risks that CROMERR applications may not be processed according to prescribed requirements and meet the high level of integrity needed for enforcement activities.

Recommendations and Planned Agency Corrective Actions

In addition to updating its current procedures, we recommend that the EPA:

- Create a process to verify a state's compliance with CROMERR and implement a completeness review process consistent with CROMERR.
- Develop internal guidance for staff to use in determining acceptable evidence for designation from the State Attorney General (or the chief administrative official).

The agency concurred with our recommendations and provided a complete corrective action plan. We consider these recommendations resolved.

Noteworthy Achievements

The EPA is developing a new management system which will allow CROMERR stakeholders to monitor their CROMERR applications through the agency review process.



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

THE INSPECTOR GENERAL

March 21, 2014

MEMORANDUM

SUBJECT: EPA Needs to Improve Management of the Cross-Media Electronic Reporting Regulation Program in Order to Strengthen Protection of Human Health and the Environment
Report No. 14-P-0143

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Renee P. Wynn, Acting Assistant Administrator and Chief Information Officer
Office of Environmental Information

Avi Garbow, General Counsel
Office of General Counsel

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. The Office of Information Collection within the Office of Environmental Information is the primary office responsible for the agency program that we reviewed. The Office of General Counsel is responsible for reviewing Attorney General certifications for the agency program reviewed.

This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

The agency concurred with all seven recommendations. We accept the EPA's response and planned corrective actions and no further response is needed. We will post this report to our website at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Richard Eyermann, acting Assistant Inspector General for Audit, at (202) 566-0565 or eyermann.richard@epa.gov; or Rudolph M. Brevard, Director, Information Resources Management Audits, at (202) 566-0893 or brevard.rudy@epa.gov.

Table of Contents

Chapters

1	Introduction	1
	Purpose	1
	Background	1
	Responsible Offices	2
	Noteworthy Achievements.....	3
	Scope and Methodology.....	3
2	Updated Procedures Needed to Aid in Consistent Review of CROMERR Applications	5
	Outdated Documented CROMERR Business Practices	5
	Inconsistent Standards for Determining AG Designee	6
	Recommendations	7
	Agency Response and OIG Evaluation.....	7
3	Improvements Needed in the Monitoring and Reviewing of CROMERR Applications	9
	EPA Lacks Internal Controls to Monitor Systems With CROMERR Applications.....	9
	EPA Does Not Adhere to Required Completeness Review Time Frames for CROMERR Applications	10
	Recommendations	11
	Agency Response and OIG Evaluation.....	11
	Status of Recommendations and Potential Monetary Benefits	13

Appendices

A	CROMERR System Checklist	14
B	Summary of States' Input on CROMERR Implementation	25
C	Agency Response to Draft Report	26
D	Subsequent Agency Response to Draft Report (OEI)	31
E	Distribution	34

Chapter 1

Introduction

Purpose

We sought to determine to what extent the U.S. Environmental Protection Agency (EPA) has implemented a management control structure for the Cross-Media Electronic Reporting Regulation (CROMERR).

Background

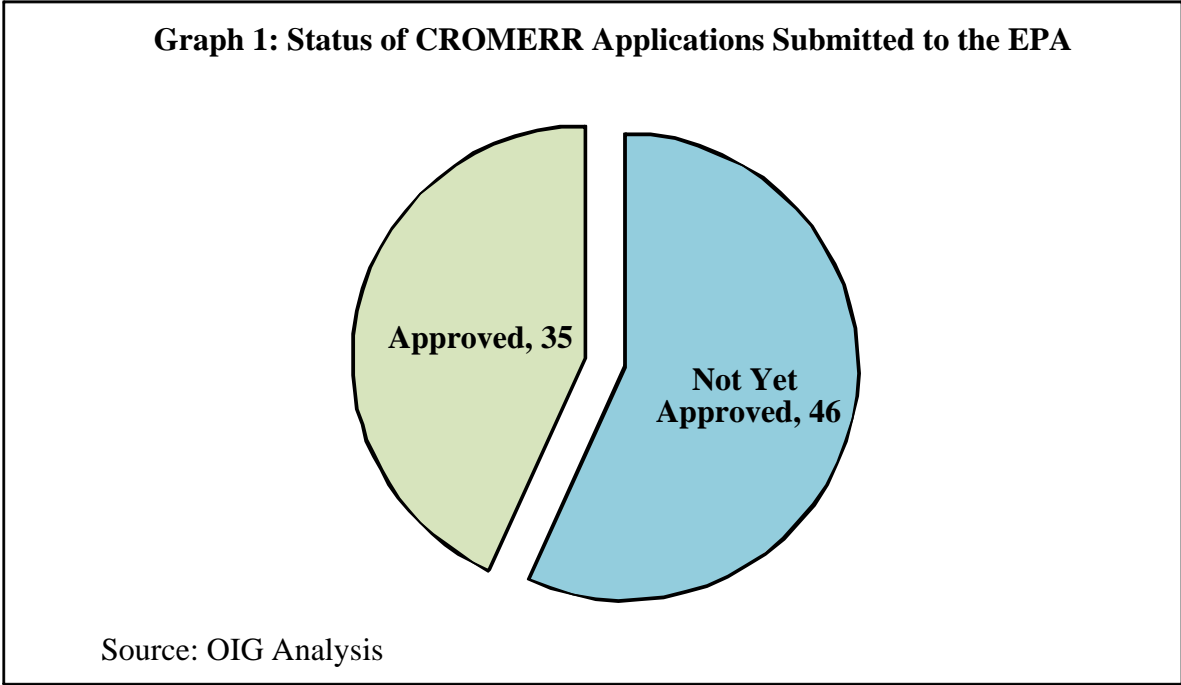
On October 13, 2005, the EPA established a framework for acceptance of electronic reports from regulated entities. Information systems receiving electronic reports for programs that states, tribes or local governments are authorized to manage must meet CROMERR standards in accordance with Code of Federal Regulations (CFR) Title 40 Part 3. CROMERR is intended to reduce the cost and burden of electronic reporting while maintaining the level of corporate and individual responsibility and accountability that exists in the paper environment. CROMERR requires an electronic report from facilities that are regulated under EPA-authorized programs to make the signatory responsible to the same extent as the signatory's handwritten signature would on a paper document. Such electronic reports must be sufficient for admission as evidence.

CROMERR supports many of the benefits of electronic reporting, including:

- Allowing government agencies and regulated entities to interact electronically.
- Fostering more rapid and accurate environmental reporting and posting of compliance information.
- Making data more readily available.
- Maintaining consistency with emerging industry practices.

States, tribes and local governments must submit a CROMERR application to receive the EPA's approval prior to receiving electronic reports. The certification for a CROMERR application from the State Attorney General (AG)—or the chief administrative official in the case of tribes and local governments—documents that the states, tribes and local governments have legal authority to receive electronic reports. The EPA's Office of General Counsel (OGC) is responsible for reviewing the certifications. After receiving an application, the Technical Review Committee (TRC), consisting of representatives from each of the EPA's program and regional offices, has 75 days to review the application for completeness.

Once an application is determined to be complete, the EPA has 180 days to approve or deny the application via the TRC.¹ According to EPA Delegation 1-120, the OGC and the Office of Enforcement and Compliance Assurance must concur or non-concur on actions to be taken on applications prior to the Office of Environmental Information (OEI) publishing the approval notice in the Federal Register. As of January 29, 2013, the EPA has approved 35 of the 81 CROMERR applications received from various states.



Responsible Offices

The Office of Information Collection (OIC) within OEI is the focal point for information collection and the development and implementation of innovative collection policies and approaches for the agency. OIC is responsible for oversight of the CROMERR program. OIC enables the agency to protect human health and the environment through informed decisions and actions.

The General Law Office within the OGC provides legal advice to the agency. OGC is the chief legal adviser to the EPA, providing support for agency rules and policies, and is responsible for reviewing CROMERR applications and verifying the AG’s certification as well as identifying any legal issues with the application.

¹ The EPA can extend the approval review time frame to 360 calendar days for applications that are submitted late in the deadline period. The CROMERR deadline period was extended to January 13, 2010, to assist state, tribes and local governments in complying with CROMERR.

Noteworthy Achievements

OEI is developing the Program and Stakeholder Management (PSM) system, a tailored vendor product, which allows CROMERR stakeholders (members from OEI, OGC, and the Office of Enforcement and Compliance Assurance, as well as regional and state personnel) to monitor CROMERR applications through the application review process. The system is a relational database housed in a cloud environment that uses CROMERR application data to create reports. By using the PSM's calendar, dashboard and email functions, representatives from OIC stated they will send email reminders to stakeholders based on the review and approval of CROMERR deadlines. They also plan to use PSM to retain program knowledge not readily available in CROMERR guidance through linkage to common issues and lessons learned.

Scope and Methodology

We conducted our audit from February 2012 to August 2013 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

We assessed the EPA's documented CROMERR processes, procedures and business practices against the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control in Federal Agencies*. We compared the CROMERR program procedures and standards to OMB Circular A-123 to determine whether management defined internal control requirements for control environment, risk assessment, control activities, information and communication, and monitoring activities. We identified internal controls used to manage the CROMERR program by interviewing agency personnel responsible for implementing the program. The EPA provided the Office of Inspector General (OIG) with a demonstration of the information system that the EPA is developing to track CROMERR applications submitted for approval to obtain an understanding of the system's features and functions.

OIC provided the OIG with a list of all CROMERR applications. The OIG selected a judgmental sample of 10 approved CROMERR applications and used the CROMERR system checklist, the template for documenting system conformance with CROMERR standards, to determine whether the sample CROMERR applications met the requirements. The checklist is divided into five categories that match with the five phases of the e-reporting process (Registration, Signature Process, Submission Process, Signature Validation, and Creation of the Copy Record). Appendix A contains the CROMERR checklist.

We also selected a judgmental sample of five reviewed CROMERR applications to test the timeliness of the review process. We reviewed the hard copy date

stamps or electronic documentation for these applications to determine the submission date. We were able to determine the date the applicant received the completeness review and, if applicable, the date the EPA approved the application. We compared these dates with the required CFR time frames for the completeness and approval reviews.

From our analysis of all CROMERR applications, we selected the following state locations with applications in various stages (submitted, completed and approved) of the CROMERR review process:

- Delaware Department of Natural Resources and Environmental Control.
- Iowa Department of Natural Resources.
- New Mexico Environment Department.
- North Carolina Department of Environment and Natural Resources.

During the site visits, we interviewed employees involved in creating the CROMERR application, developing and managing the system(s) for the application, and administrative users of the system(s). If the CROMERR application was operational or in development, we were given a demonstration of how others use the system.

From the telephone interviews and state visits, we received input from state personnel regarding how to improve the CROMERR program. Appendix B contains a list of the states' suggestions.

We did not follow up on prior recommendations since there were no prior audits conducted on the EPA's CROMERR program.

Chapter 2

Updated Procedures Needed to Aid in Consistent Review of CROMERR Applications

The EPA lacks current policies and procedures to reflect the control activities for the CROMERR processes. In particular, the EPA had not updated several key CROMERR business processes since implementing the program. The EPA also lacked formal written processes to ensure consistency in making AG determinations for submitted applications. Federal guidance requires the EPA to maintain policies and procedures to reflect the current control activities for all of their programs, which includes CROMERR processes. EPA management had not made it a priority to keep CROMERR business processes up to date. Without current documented business practices, the EPA faces the possibility that CROMERR applications may not be processed according to prescribed requirements or with the benefit of personnel with expertise on how the CROMERR process operates. Furthermore, management had not developed internal guidance for staff to use for making AG determinations. We found that 20 percent of reviewed applications lacked explicit support for AG determinations, which could have been prevented with more management oversight and internal guidance.

Outdated Documented CROMERR Business Practices

The documented business practices do not reflect the current implementation of the CROMERR program. These documented business practices include:

- EPA Procedure for Approval of State, Tribal, or Local Government Authorized or Delegated Program Applications for Implementing CROMERR.
- EPA Procedure for Implementation of CROMERR for EPA Systems.
- Technical Review Committee Charter.
- CROMERR authorized program review for approval flowchart.

In particular, the Exchange Network Policy and Planning Workgroup and Quality Information Counsel-Exchange Network Subcommittee no longer participate in the CROMERR program. However, the workgroup and subcommittee are included in the written CROMERR business practices. Also, the EPA has not updated CROMERR procedures and other business practice documentation (such as flowcharts). Additionally, the TRC documentation does not reflect the current process or participants. We also found that the EPA provides inconsistent information about where states should submit their CROMERR applications.

OMB Circular A-123 provides guidance to agency management to assess and monitor internal controls for agency programs. Specifically, control activities include “policies, procedures and mechanisms in place to help ensure the agency objectives

are met.” The objective of these internal controls is to ensure the effectiveness and efficiency of operations and compliance with laws and regulations.

While the EPA has written policies and procedures detailing internal controls around the CROMERR process, the EPA had not placed priority on keeping business processes up-to-date. This includes notification to regions and program offices about open alternate TRC representative slots, which would affect the review of CROMERR applications in the event the primary representative is unable to participate. This lack of a notification process has led to seven regions with no alternate TRC representatives assigned. Outdated documentation stating differing locations of where to send CROMERR applications can lead to the applicant sending applications to a program or regional official instead of the OIC, affecting the response time of the EPA’s application completeness review. Furthermore, there are a limited number of personnel directly involved in the review and approval process for applications. If these employees were to leave the EPA for an extended period, personnel assigned to implement the CROMERR program will not have reliable documentation to perform the application completeness review.

Inconsistent Standards for Determining AG Designee

The EPA lacks consistency in determining the sufficiency of evidence needed to support signing the State AG or equivalent certification for a CROMERR application. Based on our analysis of 10 approved CROMERR applications, 20 percent of the State AG or equivalent certification letters lacked explicit supporting documentation to show a designation from the State AG or equivalent to the designee who signed the certification.

Title 40 CFR Part 3 Subpart D §3.1000(b)(1)(i) requires CROMERR applicants to submit a certification that they have sufficient legal authority to implement electronic reporting. The signature of the State AG (or chief administrative official in cases of a tribe or local government) covers this component of the authorized programs’ CROMERR applications.

These inconsistencies exist because there are no documented policies or standards that outline what constitutes sufficient evidence for AG certifications signed by a designee. OGC lawyers review AG certifications on a case-by-case basis using their experience and legal interpretation. Without a valid AG certification, a key evidentiary piece of the EPA’s case against fraudulent electronic reporting may be lost. This potentially weakens cases brought against significant violators with fraudulent reports.

Subsequent to issuing our findings, the EPA provided written comments to the OIG. The agency stated it had updated documented CROMERR business practices. However, the agency had not provided the OIG with the documentation. Also, while AG certifications appear valid based on the totality of the documents

and authority conveyed by the designees, the lack of documented standards for OGC review remains an issue.

Recommendations

We recommend that the Director, Office of Information Collection, within the Office of Environmental Information:

1. Update written CROMERR business practices and remove references to the Exchange Network Policy and Planning Workgroup and Quality Information Counsel-Exchange Network Subcommittee since they no longer participate in the CROMERR program. Those written practices should include:
 - a) EPA Procedure for Approval of State, Tribal, or Local Government Authorized or Delegated Program Applications for Implementing CROMERR;
 - b) EPA Procedure for Implementation of CROMERR for EPA Systems;
 - c) Technical Review Committee Charter; and
 - d) CROMERR authorized program review for approval flowchart.
2. Update CROMERR procedures to state where CROMERR applications and modifications to applications are sent.
3. Develop and implement an oversight process to regularly notify regions and program offices when TRC representative roles need to be filled.

We recommend that the Associate General Counsel of the General Law Office within the Office of General Counsel:

4. Create and implement an internal guidance the staff will use to determine acceptable support for a designation from the State AG (or chief administrative official) to the designee who signs the AG certification.

Agency Response and OIG Evaluation

OEI and OGC provided a joint response to the draft report (appendix C), which was signed by the acting Assistant Administrator for OEI. OEI concurred with recommendations 1, 2 and 3, and provided a corrective action plan. We consider these recommendations resolved with corrective actions pending.

OGC did not agree with recommendation 4 to document how attorneys verify the validity of AG certifications. The agency states that 40 CFR Part 3 Subpart D §3.1000(b)(1)(i) clearly articulates the standards for AG certification. However, we found this section of the CFR to be vague regarding what constitutes a valid State AG designee. Our audit showed that there is no consistency in the

documentation the EPA received for AG designees. As such, this contributed to the discrepancies noted in this audit.

Subsequent to the issuance of our draft report, we met with representatives from both OEI and OGC. Upon discussions with OGC, we reworded the recommendation to more clearly describe the corrective action needed. In an electronic email response from OGC, its management concurred with the reworded recommendation and provided a corrective action plan. We consider this recommendation resolved with corrective action pending.

Chapter 3

Improvements Needed in the Monitoring and Reviewing of CROMERR Applications

The EPA lacks monitoring activities to verify CROMERR systems' functionality prior to approval or follow-up with states to ensure that the systems continue to meet CROMERR requirements. Furthermore, the EPA lacks processes monitoring internal controls to ensure that completeness reviews are completed within required time frames. Federal guidance requires management to have internal controls related to monitoring activities. The EPA neither implemented processes to enforce CROMERR system compliance nor created a formal documented completeness review process for reviewing CROMERR applications. This audit disclosed that one state changed its CROMERR process without notifying the EPA. Another state implemented its CROMERR application differently than the EPA approved. Additionally, the agency did not review all CROMERR applications in a timely manner. As a result of not having these key processes in place, the EPA could be receiving electronic documents which are not enforceable in court.

EPA Lacks Internal Controls to Monitor Systems With CROMERR Applications

The EPA had not implemented internal controls related to continuous monitoring to verify that the applicants' electronic reporting systems comply with CROMERR requirements.

During state site visits, we found the following:

- A system with an approved CROMERR application that did not notify the EPA of a change in their process as required by 40 CFR Part 3 Subpart D §3.1000(a)(4).
- A system with an approved CROMERR application that had one out of the 20 application checklist items not functioning as stated. While the state had other controls in place for the checklist item, the state did not notify the EPA of the change as required by 40 CFR Part 3.

OMB A-123 requires management to develop and maintain internal control activities, including monitoring.

The EPA lacks a process to enforce CROMERR compliance or to conduct monitoring activities, prior to or after approving CROMERR applications, to ensure that the system and business practices are CROMERR compliant. The agency trusts the information on the CROMERR application to be accurate and requires applicants to notify the EPA of any modifications.

OIC is responsible for implementing the CROMERR program but lacks the required internal controls. These internal controls would determine that the CROMERR applications submitted include accurate information and monitor CROMERR-compliant systems. While OIC delegates management responsibility to regional and program personnel, OIC still needs processes in place to review the regional and program monitoring activities for sufficiency. According to the EPA representatives, the CROMERR program would benefit from a policy in place requiring a review of the information in the CROMERR application from states, tribes and local governments prior to approval. However, the EPA has not taken steps to develop such policy.

By not having internal controls for monitoring application information, the EPA may be approving CROMERR applications for systems that do not function as stated in their application. It is important for applicants to receive electronic reports that are CROMERR compliant to ensure that the EPA and its authorized programs have documentary evidence for court cases. If approved systems are not CROMERR compliant, then the electronic reports from these systems may not be legally dependable and enforceable in court.

EPA Does Not Adhere to Required Completeness Review Time Frames for CROMERR Applications

The EPA does not review CROMERR applications for completeness in a timely manner. The EPA did not send written completeness reviews to two out of the five states we reviewed. The EPA also did not finish the completeness reviews of CROMERR applications within required time frames for three of the five states tested.

Table 1: Summary of results of completeness review testing

	Completeness notice written	Completeness review timely	Days that the EPA missed the deadline
Massachusetts	NO	YES	0
West Virginia	NO	NO	175
Florida	YES	NO	389
Delaware	YES	NO	280
Oklahoma	YES	YES	0

Source: OIG analysis.

Title 40 CFR Part 3 Subpart D §3.1000(b)(3)(i), requires the EPA to respond in writing to applicants notifying them that their application is complete or incomplete. This written response should occur within 75 calendar days for original application submissions and 30 calendar days for amendments to existing applications. If the application is incomplete, the EPA should identify deficiencies in the application that renders it incomplete and inform the applicant in writing of the deficiencies.

The EPA does have a formal documented completeness review process for reviewing CROMERR applications. However, according to OIC personnel, the EPA sometimes uses an informal process for reviewing CROMERR applications for completeness. Based on OIG interviews, the undocumented informal completeness review process includes the EPA and the applicant discussing the CROMERR application via telephone and email. According to OIC personnel and employees from the states that we visited, the informal completeness review process does not include written incompleteness notices or timeframes for the EPA to share the results with CROMERR applicants.

Without a response from the EPA about the status of their CROMERR application, applicants with operational systems may violate the CROMERR requirements by moving forward in receiving electronic reports without an approval. Delay in the EPA completeness review for applicants, may cause delays in the development of the system(s) and additional costs. Additionally, since the EPA's approval process begins once a CROMERR application is complete, the use of an informal review without deadlines can delay the EPA's approval of CROMERR applications.

Subsequent to issuing our findings, the agency stated it updated its documented CROMERR business practices to incorporate the informal review process. However, the agency had not provided the OIG with information for review.

Recommendations

We recommend that the Director, Office of Information Collection, within the Office of Environmental Information:

5. Create a process to determine if the information included in the CROMERR application is reliable and accurate prior to the CROMERR application being approved.
6. Create a process to regularly follow up with applicants with approved CROMERR applications in order to confirm that no changes were made to the approved CROMERR application.
7. Develop and implement a completeness review process with states, tribes and local governments that is consistent with the CROMERR program.

Agency Response and OIG Evaluation

In its response to our draft report, the agency agreed with our recommendations and provided a corrective action plan for two of the three recommendations. Management did not agree with a portion of our recommendation to create enforcement policy and procedures that include implementing a process for verifying system functionality prior to the approval of the CROMERR application. OEI stated that the CROMERR program does not authorize the EPA

to verify system functionality prior to application approval. During our audit, we noted that the EPA relies on the information the applicant provides to be accurate. As such, prior to approving applications, the EPA should determine which attributes in the CROMERR application are implemented and which attributes are not yet implemented.

Subsequent to the issuance of our draft report, we met with agency officials to discuss their concerns with the draft report recommendations. While management did not concur that the agency needed an enforcement policy, management subsequently agreed that the responsible office should have documented policies and procedures for conducting this activity. Where appropriate, we modified the report recommendations to address management concerns. Appendix C provides the agency's original response to the draft report. Appendix D contains the agency's subsequent response to the recommendations.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	7	Update written CROMERR business practices and remove references to the Exchange Network Policy and Planning Workgroup and Quality Information Counsel-Exchange Network Subcommittee since they no longer participate in the CROMERR program. Those written practices should include: <ul style="list-style-type: none"> a) EPA Procedure for Approval of State, Tribal, or Local Government Authorized or Delegated Program Applications for Implementing CROMERR; b) EPA Procedure for Implementation of CROMERR for EPA Systems; c) Technical Review Committee Charter; and d) CROMERR authorized program review for approval flowchart. 	O	Director, Office of Information Collection, Office of Environmental Information	4 th Quarter FY 2014		
2	7	Update CROMERR procedures to state where CROMERR applications and modifications to applications are sent.	O	Director, Office of Information Collection, Office of Environmental Information	2 nd Quarter FY 2014		
3	7	Develop and implement an oversight process to regularly notify regions and program offices when TRC representative roles need to be filled.	O	Director, Office of Information Collection, Office of Environmental Information	2 nd Quarter FY 2014		
4	7	Create and implement an internal guidance the staff will use to determine acceptable support for a designation from the State AG (or chief administrative official) to the designee who signs the AG certification.	O	Associate General Counsel of the General Law Office, Office of General Counsel	2 nd Quarter FY 2014		
5	11	Create a process to determine if the information included in the CROMERR application is reliable and accurate prior to the CROMERR application being approved.	O	Director, Office of Information Collection, Office of Environmental Information	3 rd Quarter FY 2014		
6	11	Create a process to regularly follow up with applicants with approved CROMERR applications in order to confirm that no changes were made to the approved CROMERR application.	O	Director, Office of Information Collection, Office of Environmental Information	1 st Quarter FY 2015		
7	11	Develop and implement a completeness review process with states, tribes and local governments that is consistent with CROMERR.	O	Director, Office of Information Collection, Office of Environmental Information	3 rd Quarter FY 2014		

¹ O = recommendation is open with agreed-to corrective actions pending
C = recommendation is closed with all agreed-to actions completed
U = recommendation is unresolved with resolution efforts in progress

CROMERR System Checklist

CROMERR System Checklist	
Item	
Registration (e-signature cases only)	
1. Identity-proofing of registrant	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
1a. (priority reports only) Identity-proofing <i>before</i> accepting e-signatures	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
1b. (priority reports only) Identity-proofing method (See 1bi, 1bii, and 1b-alt)	
1bi. (priority reports only) Verification by attestation of disinterested individuals	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

1bii. (priority reports only) Information or objects of independent origin	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
1b-alt. (priority reports only) Subscriber agreement alternative	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
2. Determination of registrant's signing authority	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

3. Issuance (or registration) of a signing credential in a way that protects it from compromise	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
4. Electronic signature agreement	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
Signature Process (e-signature cases only)	
5. Binding of signatures to document content	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

6. Opportunity to review document content	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
7. Opportunity to review certification statements and warnings	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
Submission Process	
8. Transmission error checking and documentation	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

9. Opportunity to review copy of record (See 9a through 9c)	
9a. Notification that copy of record is available	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
9b. Creation of copy of record in a human-readable format	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
9c. Providing the copy of record	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

10. Procedures to address submitter/signatory repudiation of a copy of record	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
11. Procedures to flag accidental submissions	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
12. (e-signature cases only) Automatic acknowledgment of submission	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
Signature Validation (e-signature cases only)	

13. Credential validation (See 13a through 13c)	
13a. Determination that credential is authentic	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
13b. Determination of credential ownership	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
13c. Determination that credential is not compromised	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

14. Signatory authorization	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
15. Procedures to flag spurious credential use	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
16. Procedures to revoke/reject compromised credentials	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

17. Confirmation of signature binding to document content	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
Copy of Record	
18. Creation of copy of record (See 18a through 18e)	
18a. True and correct copy of document received	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
18b. Inclusion of electronic signatures	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

18c. Inclusion of date and time of receipt	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
18d. Inclusion of other information necessary to record meaning of document	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
18e. Ability to be viewed in human-readable format	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

19. Timely availability of copy of record as needed	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):
20. Maintenance of copy of record	
	Business Practices:
	System Functions:
	Supporting Documentation (list attachments):

Summary of States' Input on CROMERR Implementation

Suggestion	States agreeing with suggestion
More CROMERR information technology (IT) guidance to the states. (Includes providing states' IT security personnel with training about CROMERR IT requirements).	5
Timelier response to application submissions and inquiries.	4
Provide current list of states with CROMERR-compliant systems (with point of contacts), and list of third party solutions/vendors.	4
More outreach from the EPA (including face-to-face and direct communication).	3
CROMERR website updated with current communication.	3
Staffing OEI CROMERR personnel for the size of the workload they are handling.	3
More EPA-created systems for states to use/customize.	3
Provide states with models of CROMERR-compliant systems.	3
More involvement from regional TRC representative in the CROMERR process.	3
Provide definitive technical answers to states' questions.	3
CROMERR application reviews should consider new IT solutions as opposed to tailoring systems to previously approved IT solutions.	2
Provide expected timeframe for response during informal process. Also, determine when formal process should be used.	2
Provide regions and states with "question and answer" sessions to assist with the application process.	2
Avoid delays in implementing e-reporting system (caused by the CROMERR application process affecting production and operations costs).	2
Assistance from the EPA with marketing states' e-report systems to its intended users.	1
Provide source code and other CROMERR-compliant operational technology in a vendor-neutral format.	1
Provide information regarding how facilities and other third parties submit electronic reports directly to the EPA in a CROMERR-compliant format.	1

Source: OIG analysis.

Agency Response to Draft Report

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report No. OMS-FY12 0004: EPA Needs to Improve Management of the Cross-Media Electronic Reporting Regulation Program, dated August 28, 2013

FROM: Renee P. Wynn 
Acting Assistant Administrator and Chief Information Officer

TO: Richard Eyermann, Acting Assistant Inspector General
Office of Audit
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. This memorandum provides a summary of the position on each of the report's six recommendations. For those report recommendations with which the agency agrees, I have provided high-level intended corrective actions and estimated completion dates. For those report recommendations with which the agency does not agree, I have explained EPA's position and provided the legal basis when relevant.

AGENCY'S POSITION

Of the six recommendations in the draft audit report, EPA agrees with recommendations 1, 2, 3, 5b and 6 and describes corrective actions in the provided Agreements table. EPA disagrees with recommendations 4 and 5a.

SUMMARY OF DISAGREEMENTS

With respect to OIG recommendation 4, EPA disagrees because the regulation governing the program clearly articulates the standards by which that agency is to evaluate state Attorney General certifications.

With respect to OIG recommendation 5a, EPA disagrees because it does not have the legal authority within CROMERR to inspect authorized programs' electronic reporting systems prior to application approval.

If you have any questions regarding this response, please contact Jonathan Jacobson, subject audit primary contact, Office of Information Collection, Information Exchange and Services Division, Information Exchange Partnership Branch at (202) 566-1984, jacobson.jonathan@epa.gov or Scott Dockum, OEI Audit Follow-Up Manager, Office of Program Management, Policy, Outreach and Communications Staff at (202) 566-1914, dockum.scott@epa.gov.

Attachments

cc: Rudy Brevard
Connie Dwyer
Warren Brooks
Jonathan Jacobson
Evi Huffer
Karen Seeh
Christina Nelson
Scott Dockum

Attachment 1

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	Update CROMERR procedures to remove references to the Exchange Network Policy and Planning Workgroup (ENPPW) and Quality Information Counsel – Exchange Network Subcommittee (QIC-ENS) because they no longer participate in the CROMERR program, including: a). EPA Procedure for Approval of State, Tribal, or Local Government Authorized or Delegated Program Applications for Implementing CROMERR; and b). EPA Procedure for Implementation of CROMERR for EPA Systems. Update the following	1.1 a and b – Update procedures 1.1 c – Update Technical Review Committee Charter 1.1 d – Update flow chart 1.2 a and b – Submit updated Procedure Documents to CIO for review and approval 1.3 a and b – Obtain CIO approval of updated Procedure Documents 1.3 EPA will review CROMERR documents every three years to ensure that the content reflects current practices	1 st Quarter FY 2014 1 st Quarter FY 2013 (complete) 1 st Quarter FY 2013 (complete) 1 st Quarter FY 2014 4 th Quarter FY 2014 2 nd Quarter FY 2017

	documents to reflect current business practices: c). Technical Review Committee Charter; and d). CROMERR authorized program review for approval flowchart.		
2	Update CROMERR procedures to state where CROMERR applications and modifications to applications are sent.	The step-by-step guide for authorized programs found on the CROMERR website (http://epa.gov/cromerr/documents/cromerr_step_by_step_guide.pdf) provides the correct address for submitting applications. OEI will inventory all CROMERR websites and will update all website documentation to direct applicants to the step-by-step guide or remove information that is not consistent with the step-by-step guide.	2 nd Quarter FY 2014
3	Develop and implement an oversight process to regularly notify Regions and Program Offices when TRC representative roles need to be filled.	Over the past 18 months OEI has implemented procedures to ensure that all program offices and Regions are represented on the TRC as part of its overall effort to improve program administration and communication. OEI will codify these activities in a Standard Operating Procedure (SOP) that OEI will post on its internal OEI SOP intranet website.	2 nd Quarter FY 2014
5	Take the lead to create an enforcement policy and procedures that include implementing a process for: b). Following up with applicants that have approved CROMERR applications, noting any changes made to the approved	b). With respect to post-approval changes, EPA's approval letter informs applicants of their obligation to notify EPA of any changes (e.g., technology, business practices, statutory, regulatory) that would affect the system and includes, as an attachment, the procedure for notifying the agency and modifying the applicant's program authorization if the change merits such modification. To date, EPA is not aware of any cases of non-compliance.	1 st Quarter FY 2013 (complete)

	CROMERR application.		
6	Develop and implement a completeness review process with states, tribes, and local governments that is consistent with CROMERR.	EPA will conduct completeness reviews on new applications that are consistent with CROMERR's requirements.	3 rd Quarter FY 2014

Disagreements

No.	Recommendation	Agency Explanation/Response
4	Document how attorneys verify the validity of an AG certification, including how to determine an authorized AG designee.	While AG certifications vary in content, OGC finds that agency regulations at 40 C.F.R. section 3.1000(b)(1)(i) clearly articulates the standards by which to evaluate the AG certifications.
5	Take the lead to create an enforcement policy and procedures that include implementing a process for: a). Verifying system functionality prior to the TRC approval of CROMERR Applications.	a). CROMERR's requirements to review and approve applications for authorized program modifications/revisions are modeled on EPA's primacy regulations, which rely on the accuracy of the information provided by authorized programs. The regulation does not authorize the agency to verify system functionality prior to application approval.

Subsequent Agency Response to Draft Report (OEI)

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	Update CROMERR procedures to remove references to the Exchange Network Policy and Planning Workgroup (ENPPW) and Quality Information Council – Exchange Network Subcommittee (QIC-ENS) because they no longer participate in the CROMERR program, including: a). EPA Procedure for Approval of State, Tribal, or Local Government Authorized or Delegated Program Applications for Implementing CROMERR; and b). EPA Procedure for	1.1 a and b – Submit updated Procedure Documents to CIO for review and approval	1 st Quarter FY 2014
		1.1 c – Update Technical Review Committee Charter	1 st Quarter FY 2013 (complete)
		1.1 d – Update flow chart	1 st Quarter FY 2013 (complete)
		1.2 a and b – Submit updated Procedure Documents to CIO for review and approval	1 st Quarter FY 2014
		1.3 a and b – Obtain CIO approval of updated Procedure Documents	4 th Quarter FY 2014
		1.3 EPA will review CROMERR documents every three years to ensure that the content reflects current practices	2 nd Quarter FY 2017

	<p>Implementation of CROMERR for EPA Systems. Update the following documents to reflect current business practices: c). Technical Review Committee Charter; and d). CROMERR authorized program review for approval flowchart.</p>		
2	<p>Update CROMERR procedures to state where CROMERR applications and modifications to applications are sent.</p>	<p>The step-by-step guide for authorized programs found on the CROMERR website (http://epa.gov/cromerr/documents/cromerr_step_by_step_guide.pdf) provides the correct address for submitting applications. OEI will inventory all CROMERR websites and will update all website documentation to direct applicants to the step-by-step guide or remove information that is not consistent with the step-by-step guide.</p>	<p>2nd Quarter FY 2014</p>
3	<p>Develop and implement an oversight process to regularly notify Regions and Program Offices when TRC representative roles need to be filled.</p>	<p>Over the past 18 months OEI has implemented procedures to ensure that all program offices and Regions are represented on the TRC as part of its overall effort to improve program administration and communication. OEI will codify these activities in a Standard Operating Procedure (SOP) that OEI will post on its internal OEI SOP intranet website.</p>	<p>2nd Quarter FY 2014</p>
4	<p>Create and implement an internal guidance the staff will use to determine acceptable evidence for an authorized AG designee.</p>		

5	Create a process to determine if the information included in the CROMERR application is reliable and accurate prior to the CROMERR application being approved.	As part of OEI's internal completeness review process for an application, OEI prepares detailed comments identifying all areas of an application where additional information is needed in order to determine if an application can be approved. OEI sends these comments to the applicant with the completeness determination letter and follows up with a conference call to review the comments and obtain the information required to determine the application to be complete.	Ongoing
6	Create a process to regularly follow up with applicants with approved CROMERR applications in order to confirm that no changes were made to the approved CROMERR application.	OEI will utilize the CROMER Program Management System automated email capabilities to send all applicants with approved applications an annual reminder to inform OEI of any changes to their CROMERR applications.	1 st Quarter FY 2015

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