



# At a Glance

## Why We Did This Review

We conducted this evaluation to determine whether the U.S. Environmental Protection Agency (EPA) ensured selected facilities with Clean Air Act violations were complying with key terms of their consent decrees. A consent decree (CD) is a legal settlement, contained in a court order, where a person or company agrees to take specific actions. The EPA entered into multi-year CDs involving millions of dollars in controls, penalties and supplemental environmental projects. We reviewed three CDs from 2006 to 2011 for three industry sectors: cement manufacturing, coal-fired electric utility and sulfuric acid production. We reviewed two facilities from each of the three selected CDs.

### **This report addresses the following EPA goals or cross-agency strategies:**

- *Addressing climate change and improving air quality.*
- *Protecting human health and the environment by enforcing laws and assuring compliance.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit [www.epa.gov/oig](http://www.epa.gov/oig).

The full report is at: [www.epa.gov/oig/reports/2015/20150910-15-P-0277.pdf](http://www.epa.gov/oig/reports/2015/20150910-15-P-0277.pdf)

## ***EPA Can Reduce Risk of Undetected Clean Air Act Violations Through Better Monitoring of Settlement Agreements***

### **What We Found**

The EPA has not ensured that facilities were complying with several key terms of the three CDs we reviewed. EPA regional enforcement files were missing key CD deliverables as well as other documents required by the CD. Further, CD requirements were not always incorporated into facilities' permit as required by the CD and potential CD violations were not addressed. The EPA did not have sufficient management controls to ensure that these facilities were complying with the terms of their CDs. These deficiencies occurred because:

**Adequate tracking of consent decrees by the EPA reduces the risk of violations going undetected, which could impact human health and the environment.**

- The seven EPA regions we interviewed have not implemented automated systems for tracking compliance with CD requirements in accordance with the EPA's guidance for the selected industries.
- The EPA's guidance does not establish clear requirements on how regional staff should monitor CDs, provides only vague guidance on what specific documents to include in the CD enforcement file, and lacks specific procedures for terminating CDs (other than petroleum refinery CDs).
- The EPA's Office of Enforcement and Compliance Assurance stated that because of the need to balance its resources between addressing violators not currently under CDs and monitoring compliance of existing CDs, it has chosen to focus its resources on addressing new violations not under CDs.

As a result, the EPA does not have reasonable assurance that these facilities are complying with several key terms of their CD. We found that the Title V permits for two facilities had not been revised to incorporate the CD requirements. Thus, violations of the approved emission limits could go undetected since Louisiana and West Virginia permitting and enforcement staff were not aware of the requirements of the CDs we reviewed. Not ensuring compliance with the requirements of the CD creates the risk that facility emissions of harmful air pollutants above CD-required limits go undetected, thus reducing CD effectiveness and exposing the public to harm.

### **Recommendations and Planned Agency Corrective Actions**

We made six recommendations ranging from updating and reissuing guidance for regional monitoring of CDs and termination procedures to requiring the use of a monitoring system to track CD compliance. The agency agreed with three of the six recommendations, which are resolved. The agency partially agreed or disagreed with the remaining recommendations, which are unresolved.