



Office of Inspector General
Report of Audit

RCRA ENFORCEMENT

**Resource Conservation and Recovery Act
Significant Non-Complier Enforcement**

Report No. E1DSD8-05-0036-9100110

March 23,1999

**Inspector General Division
Conducting the Audit:**

**Northern Audit Division
Chicago, Illinois**

Region Covered:

Region 5

Program Offices Involved:

Waste, Pesticides & Toxics Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL
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March 23, 1999

MEMORANDUM

SUBJECT: Audit Report No. E1DSD8-05-0036-9100110
Resource Conservation and Recovery Act Programs
Significant Non-Complier Enforcement

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

TO: David A. Ullrich
Acting Regional Administrator
Region 5

Attached is the final report on Region 5's and Illinois Environmental Protection Agency's (IEPA) identification and enforcement of significant non-compliers under the Resource Conservation and Recovery Act. We found that, overall, Region 5 and IEPA were appropriately identifying and taking enforcement actions against significant non-compliers. We also found that Region 5 and IEPA need to improve the accuracy of Resource Conservation and Recovery Information System data.

This audit report contains findings that describe problems the Office of Inspector General has identified and corrective actions the OIG recommends. As such, this audit report represents the opinion of the OIG. Final determinations on matters in the report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings contained in this audit report do not necessarily represent the final EPA position and are not binding upon EPA in any enforcement proceedings brought by EPA or the Department of Justice.

ACTION REQUIRED

In accordance with EPA Order 2750 you as the action official are required to provide us with a written response to the audit report, including finalized corrective actions and milestone dates, within 90 days of the final audit report date. In responding to the draft report, your office provided draft corrective actions, with milestone dates, for the recommendation. Once finalized, the action plan with comply with our recommendations.

We have no objections to the further release of this report to the public.

We appreciate the cooperation you, your staff, and the IEPA staff provided during this review. Should you or your staff have any questions, please contact Kimberly O'Lone, Audit Manager, at 312-886-3186.

Attachment

EXECUTIVE SUMMARY

INTRODUCTION

The Office of Inspector General (OIG) performed an audit of Region 5's and Illinois Environmental Protection Agency's (IEPA) identification and enforcement of significant non-compliers under the Resource Conservation and Recovery Act (RCRA). We selected this audit because similar OIG reviews indicated that enforcement of RCRA regulations in other states may not always be consistent with, or as stringent as, Environmental Protection Agency (EPA) enforcement. Region 5's and IEPA's role is to ensure that facilities are effectively managing hazardous waste. This management includes reducing the toxicity and amount of hazardous waste generated to minimize releases into the environment.

OBJECTIVES

The overall objective was to evaluate significant non-complier (SNC) identification and enforcement at the state and regional level. The specific objectives were:

1. Did the classification of the violator and the related enforcement action comply with the enforcement policy in effect at the time?
2. Was the classification correctly recorded in the Resource Conservation and Recovery Information System (RCRIS)?
3. Did EPA or the state ensure that the facility returned to compliance, and was this adequately documented?
4. If the enforcement was performed under the 1996 enforcement policy, was the action timely?

RESULTS IN BRIEF

Overall, Region 5 and IEPA were appropriately identifying and taking enforcement actions against SNCs. Specifically, Region 5 and IEPA ensured that the: (1) violator classification and related enforcement actions complied with policy, (2) SNC classification was usually correctly recorded in RCRIS, and (3) facilities returned to compliance

and that this was adequately documented. Enforcement actions were not always timely, but in all but one case the delays were justifiable under EPA's Hazardous Waste Civil Enforcement Response Policy. Also, as part of its annual enforcement activities, IEPA has taken the initiative to visit facilities that are not fully regulated under RCRA. IEPA checks how these facilities are handling their hazardous waste through a procedure IEPA calls a compliance assistance survey.

Region 5 and IEPA need to improve the accuracy of RCRIS data entry. Forty-two percent of the Region 5 files and thirty-six percent of the IEPA files had some information that did not agree with the database. RCRIS inaccuracies were due to: (1) inspectors not submitting documents for entry, (2) documents being filed prior to entry, and (3) human error. As a result, EPA and IEPA do not have complete data for determining facilities' compliance histories and each agency's enforcement activities.

RCRIS also did not accurately reflect IEPA's compliance assistance survey activities. RCRIS did not reflect: (1) letters to facilities stating the deficiencies identified and (2) deficiencies corrected during the surveys. Accurate information helps to show that IEPA is taking additional measures to ensure that more facilities are taking the appropriate steps to prevent hazardous waste releases. Also, to measure the facilities' willingness to comply, IEPA may want to consider adding a timeframe for return to compliance in its letters for compliance assistance activities.

RECOMMENDATION

We recommend that the Acting Regional Administrator, Region 5, establish specific procedures for data entry to ensure adequate controls over Regional and state RCRIS input.

**SUGGESTED
IMPROVEMENTS**

Although IEPA is not required to conduct compliance assistance surveys, we suggest that the Director, IEPA, revise compliance assistance survey procedures to assure that: (1) information is accurately coded in RCRIS, (2) all deficiencies are entered, and (3) letters to facilities include timeframes for corrective action.

AGENCY ACTIONS

In responding (Appendix 1) to our draft report, the Acting Regional Administrator, Region 5, acknowledged that continuous improvement is essential in carrying out established procedures for data entry to ensure adequate controls over Regional and state RCRIS input. The Acting Regional Administrator provided a draft fiscal year 1999 Action Plan which includes milestone dates for RCRIS activities.

STATE ACTIONS

In response (Appendix 2) to our suggested improvements, IEPA has revised its compliance assistance survey procedures to ensure: (1) activities are more accurately reflected in RCRIS, (2) all deficiencies are entered in RCRIS, and (3) facilities are provided with a timeframe for returning to compliance.

OIG EVALUATION

Region 5's Action Plan, when finalized and implemented, will address the recommendation in this report. IEPA's actions address the suggested improvements in this report.

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ABBREVIATIONS

EPA	U. S. Environmental Protection Agency
IEPA	Illinois Environmental Protection Agency
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
Policy	Hazardous Waste Civil Enforcement Response Policy
RCRA	Resource Conservation and Recovery Act
RCRIS	Resource Conservation and Recovery Information System
SNC	Significant Non-Complier

CHAPTER 1

Introduction

PURPOSE

The Office of Inspector General (OIG) performed an audit of significant non-complier (SNC) identification and enforcement under the Resource Conservation and Recovery Act (RCRA). We selected this area for review because similar OIG reviews in Regions 1, 3, and 10 indicated that state enforcement of RCRA regulations may not always be consistent with, or as stringent as, U. S. Environmental Protection Agency (EPA) enforcement. Our overall objective was to evaluate SNC identification and enforcement at the state and regional level. The specific objectives were to answer the questions:

1. Did the classification of the violator and the related enforcement action comply with the enforcement policy in effect at the time?
2. Was the classification correctly recorded in the Resource Conservation and Recovery Information System (RCRIS)?
3. Did EPA or the state ensure that the facility returned to compliance, and was it adequately documented?
4. If the enforcement was performed under the 1996 enforcement policy, was the action timely?

BACKGROUND

Congress enacted RCRA Subtitle C in 1976 to establish a framework for managing hazardous waste; waste that is capable of harming human health or the environment. RCRA mandated that EPA develop a comprehensive set of regulations for hazardous waste generators, transporters, and treatment, storage, and disposal facilities.

EPA's current Hazardous Waste Civil Enforcement Response Policy (Policy), effective April 15, 1996, establishes two types of violators under RCRA: SNCs and Secondary Violators. A facility that is found to be in violation but does not meet the SNC definition is a Secondary Violator. SNCs are:

those facilities which have caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements.

States play a crucial role in implementing the hazardous waste program. One aspect of implementation is monitoring facilities to verify that they comply with regulatory requirements. The primary method of monitoring is through an inspection. Inspections of hazardous waste facilities may include formally visiting the handler, reviewing records, taking samples, and observing operations.

States also have the authority to assist some facilities, such as small businesses, in complying with regulations. Facilities that generate less than 100 kilograms per month of hazardous waste and less than 1 kilogram per month of acutely hazardous waste are conditionally exempt from full regulation under Subtitle C. Small quantity generators which generate between 100 and 1000 kilograms of hazardous waste per month are also exempt from full regulation. IEPA primarily uses compliance assistance to ensure these facilities are operating in accordance with the regulations.

**SCOPE AND
METHODOLOGY**

We performed our audit in accordance with the U.S. General Accounting Office's Government Auditing Standards, 1994 Revision, issued by the Comptroller General of the United States, and included such tests as we saw necessary to complete the objectives.

For further details on the audit scope, methodology, and prior audit coverage, see exhibit 1.

CHAPTER 2

SNCs Properly Identified and Enforced Against

Region 5 and IEPA generally identified and took appropriate enforcement actions against SNCs, for the cases we reviewed. Overall, (1) violator classification and related enforcement actions complied with the Policy, (2) classifications were correctly recorded in RCRIS, and (3) return to compliance was ensured and adequately documented. Also, the enforcement actions were not always timely, but in all but one case the delays were justifiable under the Policy.

CLASSIFICATION AND ENFORCEMENT COMPLIED WITH POLICY (OBJECTIVE 1)

Region 5 and IEPA correctly classified violators and took appropriate enforcement actions for most of the cases in our sample. These actions ensured that facilities were complying with RCRA requirements. For example, as a result of IEPA's enforcement actions, unknown waste was tested to determine if it was hazardous. The waste could then be properly handled to minimize releases into the environment.

The 1987 and 1996 Policies explain the requirements for identifying and providing appropriate enforcement of SNCs. Each Policy defines classes of violators and prescribes the minimally acceptable enforcement action. The 1996 Policy contains two classes of violators: secondary violators and SNCs. The Policy calls for an informal enforcement action, at a minimum, for a secondary violator. An informal enforcement response recites the violations and includes a schedule for returning the facility to full compliance. The Policy calls for a formal enforcement response for an SNC. A formal response mandates compliance and seeks injunctive relief to ensure that the facility will promptly return to full compliance. Economic sanctions, such as penalties, should be incorporated into the formal enforcement response, as appropriate.

Region 5 and IEPA properly classified the violators and took enforcement action in accordance with the Policy for all but one case. See table 1.

**Table 1: Proper Classification
and Enforcement**

	Region 5	IEPA
Properly Classified	12	27
Proper Enforcement Action	12	26

For the 12 Region 5 cases reviewed, the Region properly classified and took related enforcement actions that complied with the Policy in effect at the time. For IEPA, 26 of the 27 cases complied with the Policy in effect at the time. While the classification was correct, IEPA did not take a formal enforcement action for the remaining case because it involved a paperwork violation that did not threaten human health or the environment, and the facility was closing.

**SNC CLASSIFICATION
CORRECTLY
RECORDED
(OBJECTIVE 2)**

Region 5 and IEPA usually recorded the proper classification in RCRIS when the facility was an SNC. EPA requires SNCs to be recorded in RCRIS. EPA uses RCRIS to:

- obtain the data it needs to manage and track the RCRA enforcement program, and
- review and track the program’s progress toward the Government Performance and Results Act goals.

Therefore, if SNCs are not properly designated in RCRIS, it could lead to erroneous conclusions of RCRA enforcement accomplishments.

Seven of the twelve Region 5 cases reviewed were SNCs. Four of the seven cases were correctly designated as SNCs in RCRIS. One case was not entered into RCRIS as required. The other two cases were recently classified as SNCs, so the RCRIS entries had not been made prior to our review. Subsequent to our fieldwork, Region 5 entered all three SNC designations into RCRIS.

For IEPA, 3 of the 27 inspection cases reviewed should have been recorded as SNCs in RCRIS. While IEPA began to use the new RCRIS code for SNCs as soon as it was available, RCRIS did not reflect IEPA’s SNC determination for one of the three cases. IEPA officials corrected this during our review.

**ENSURED AND
DOCUMENTED RETURN
TO COMPLIANCE
(OBJECTIVE 3)**

Region 5 and IEPA ensured and adequately documented return to compliance for all except two of the facilities that are now complying with regulations. See table 2. Bringing facilities back into compliance is needed for the program to effectively reduce risks to human health and the environment. The Policy provides guidelines designed to promptly return facilities to compliance with all applicable RCRA requirements. To document the return to compliance, both Region 5 and IEPA issue letters to the facilities.

**Table 2: Verified and Documented
Return to Compliance**

	Region 5	IEPA
Cases Returned to Compliance	4	22
Return to Compliance Verified	4	21
Return to Compliance Documented	4	20

For Region 5, 4 of the 12 cases reviewed had returned to compliance, and Region 5 verified and documented the return to compliance with a letter to the facility.

For IEPA, 22 of the 27 inspection cases reviewed indicated that the facility had returned to compliance. IEPA verified return to compliance for 21 cases. For the remaining case, there was no evidence that the facility had returned to compliance. IEPA officials were following up on this case by requiring the collection of soil samples. IEPA adequately documented return to compliance by issuing letters for 20 of the 21 cases. One return to compliance letter had not been issued since a settlement was being negotiated with the Attorney General’s office.

**ENFORCEMENT
ACTION NOT ALWAYS
TIMELY
(OBJECTIVE 4)**

Region 5 and IEPA did not always take formal enforcement actions within the established timeframes. When delays occurred, however, all but one were justifiable under the Policy. The Policy establishes a timeframe for taking formal enforcement action. Untimely enforcement actions create the potential for the violations to continue to pose a threat to human health and the environment and do not deter future non-compliance.

The Policy: (1) states that regions and states should meet, to the extent possible, the standard enforcement response times; (2) provides for an annual 20 percent exceedence for cases that involved unique factors; and (3) identifies circumstances that might prevent an agency from meeting the response times, such as: potential criminal conduct, cases involving two or more media, or additional sampling or information requests.

Seven of the twelve Region 5 cases reviewed involved formal enforcement actions. In one of those seven, Region 5 took a formal enforcement action within the timeframe established in the Policy. One case was 17 days late, which we did not consider to be significant. For the five remaining cases, delays were justifiable under the Policy.

- Region 5 management decided to try a new approach, which required revising the documents for two cases to make them stronger. A novel defense is one factor that might result in exceeding the response time established in the Policy.
- Two other cases were multi-media, involving more than just RCRA violations, and it took longer to get concurrence from all EPA programs involved. The Policy states that cases involving two or more media may exceed the standard response times.
- One case was delayed because it raised complex questions, and Region 5 had to make additional information requests. The Policy recognizes such requests may prevent the implementing agency from meeting the response time.

For IEPA, formal enforcement action was taken for 3 of the 27 inspection cases. Two of these actions were taken within the timeframe established in the Policy. The third case involved criminal conduct, which is recognized in the Policy as requiring additional time for an enforcement action.

CONCLUSION

Region 5 and IEPA generally identified and performed appropriate enforcement against significant non-compliers, thereby effectively reducing risks to human health and the environment. Region 5 and IEPA need to continue to ensure that the: (1) violator classification and related enforcement actions comply with policy, (2) SNC classification is correctly recorded in RCRIS, (3) return to compliance is achieved and adequately documented, and (4) enforcement action is taken timely.

CHAPTER 3
Other Matters:
RCRIS Data Inaccurate

Although Region 5 and IEPA were generally meeting our audit objectives, we found some other areas that could use improvement. Region 5 and IEPA could improve the completeness and accuracy of the hazardous waste database, RCRIS. Forty-two percent of the Region 5 files and thirty-six percent of the IEPA files reviewed had some information that did not agree with the database. RCRIS inaccuracies were the result of: (1) documents not being submitted for entry, (2) documents being filed prior to entry, and (3) human error. Data problems result in Region 5, IEPA, and the Office of Enforcement and Compliance Assurance (OECA) having inaccurate information on facilities' compliance histories and each agency's enforcement activities. Data problems also result in the public having access to inaccurate information.

Through compliance assistance surveys, IEPA is encouraging proper waste handling and bringing more facilities into compliance than RCRA requires. However, to provide an accurate picture of the State's enforcement activities, IEPA needs to ensure that RCRIS reflects: (1) actions taken because of the surveys and (2) corrected deficiencies. IEPA should also consider adding a timeframe for action to its letters to facilities.

RCRIS DATA
INACCURATE

Region 5's and IEPA's RCRIS data were not always accurate. RCRIS did not include some information on such things as: inspections, violations, or facilities' corrections of violations. RCRIS needs to accurately reflect all enforcement activities to ensure that EPA and the states have the information they need to take appropriate future enforcement actions. Accurate information is also essential for the public to make informed environmental decisions and for businesses to improve environmental management practices.

The RCRIS database includes information on hazardous waste generators; transporters; and treatment, storage, and disposal facilities

regulated under RCRA Subtitle C. RCRIS is used interactively at the state and regional level with monthly updates to the National Oversight database. The national database contains those data elements which states, EPA regions, and EPA headquarters have determined to be necessary for RCRA oversight from a national perspective.

Inaccurate RCRIS data were due to documents not being submitted for entry, documents being filed prior to entry, and human error. For example:

- A follow-up compliance assistance survey performed in September 1997 was not reflected in RCRIS. As a result of our work, the State's regional inspector submitted the document to the Springfield office for entry.
- Documentation regarding an inspection and the related violations was on file, but not in RCRIS.
- A return to compliance date was incorrectly entered as the date the violation was identified.

If data are missing or inaccurate, Region 5, IEPA, and OECA can not, for example, properly determine a facility's compliance status or get an accurate picture of a facility's violation history. Inaccurate RCRIS information could impact future enforcement. If RCRIS does not reflect that a violation is a repeat violation, IEPA may mistakenly take an informal enforcement action when a formal action may have been more appropriate.

Region 5

Some information in 42 percent (5 of 12) of the Region 5 files reviewed did not agree with RCRIS. For example:

- A document, dated February 19, 1998, indicated that no RCRA violations were found during a multi-media inspection at a facility. However, a September 1998 RCRIS printout indicated that RCRA violations were still pending.
- An enforcement action requesting information was not entered.

- A September 1998 RCRIS printout showed an incorrect date for a final compliance order.

Region 5 started correcting the inaccuracies we identified while our fieldwork was on-going. Region 5 subsequently corrected all five discrepancies.

IEPA

Some information in 36 percent (18 of 50) of the IEPA files reviewed disagreed with RCRIS data. For example, IEPA did not enter:

- return to compliance dates for eight facilities. Thus, although these facilities were now complying with RCRA, the database showed them as out of compliance.
- follow-up inspections at two facilities, so the database did not show that these facilities had corrected the problems.
- an inspection and the related violations, thereby under-representing the work IEPA did and making the data incomplete.

IEPA started correcting the inaccuracies we identified while our fieldwork was on-going. Of the 18 facilities where some RCRIS information did not agree with the files, IEPA corrected 14 during our fieldwork and one was pending. We noted discrepancies but did not suggest corrections be made for the remaining three cases due to specialized circumstances.¹

**COMPLIANCE
ASSISTANCE SURVEY
DATA NOT ACCURATE
IN RCRIS**

RCRIS did not accurately reflect IEPA's compliance assistance survey activities. IEPA uses compliance assistance surveys to bring facilities that are not fully regulated under Subtitle C into compliance. However, RCRIS did not reflect: (1) letters to facilities

¹ One case was one of the first compliance assistance surveys IEPA entered into RCRIS and did not include the deficiencies identified. Since performing and recording surveys was new, Region 5 and IEPA had not decided how to record deficiencies. One case was entered as a compliance assistance survey follow-up when the return to compliance was actually based on a record review. The last case showed a non-financial record review on the same date the significant non-complier determination was made, but there was no supporting documentation for the review or the determination on file.

stating the deficiencies identified and (2) deficiencies corrected during the surveys. As a result of our work, Region 5 and IEPA officials established a new RCRIS code that will more accurately reflect IEPA's actions for compliance assistance surveys.

**Surveys Encourage
Proper Waste Handling**

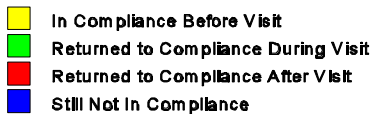
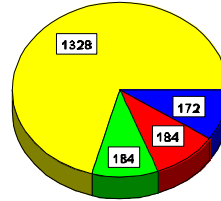
IEPA is helping facilities that are not fully regulated effectively manage hazardous waste. This includes reducing the toxicity and amount of hazardous waste generated to minimize releases into the environment. IEPA focuses compliance assistance surveys on small businesses, such as small or conditionally exempt generators, that have not previously been inspected since they are not fully regulated under RCRA. For example, IEPA performed compliance assistance surveys at a dry cleaner, automotive repair shop, machine shop, and rock quarry. The surveys focus primarily on waste handling procedures with some emphasis on pollution prevention, recycling, and waste minimization. IEPA's goal is to make more businesses aware of hazardous waste regulations and help them achieve compliance without the use of penalties or enforcement. Also, IEPA discontinues a compliance assistance survey and formally inspects those facilities where a substantial and imminent danger to public health or the environment is identified.

For fiscal year 1997, IEPA performed compliance assistance surveys at 1,868 facilities. Of the total, 1,696, or 91 percent, either: (1) were in compliance before IEPA's visit, (2) returned to compliance during the visit, or (3) returned to compliance after the visit. See chart 1. IEPA plans to conduct follow-up surveys and additional compliance assistance surveys at the remaining 172 sites that are still in non-compliance.

Chart 1:

Fiscal Year 1997

Illinois Compliance Assistance Surveys



IEPA has procedures for recording any problems noted during compliance assistance surveys and for issuing letters to the facilities. IEPA has revised its procedures due to internal issues as well as issues we identified.

RCRIS Code Needed For Survey Actions

OIG, Region 5, and IEPA officials agreed that a RCRIS code identifying an action that is less than informal enforcement would be more reflective of IEPA's actual actions for compliance assistance surveys. Because IEPA is monitoring facilities that are not fully regulated, IEPA views the problems identified as deficiencies, not violations. The state records the compliance assistance survey and any deficiencies in RCRIS. It then issues letters to the facilities which indicate any concerns noted and recommended corrective actions. However, it did not record these letters in RCRIS. Since the goal of compliance assistance is to achieve compliance without the threat of enforcement, IEPA did not want RCRIS to reflect the letter as an informal enforcement action. However, not recording the action in RCRIS left the database incomplete. Based on our work, Region 5 and IEPA established a code, effective December 18, 1998, to reflect actions taken for compliance assistance surveys.

Corrected Deficiencies Not Recorded

IEPA does not record deficiencies corrected during compliance assistance surveys in RCRIS. This is because IEPA uses the date of the return to compliance letter, rather than the actual return to compliance date, to reflect a facility's actions. As a result, Region 5,

IEPA, and OECA can not get an accurate history of compliance for a facility. If a facility is cited for additional problems in the future, the history of violations is important for determining the appropriate actions to take.

**Letters Should
Include Timeframe**

For the 23 IEPA compliance assistance surveys reviewed, only 4 included a return to compliance timeframe in the letter sent to the facility. Because these facilities are not fully regulated under Subtitle C, timeframes are not required. However, IEPA may want to consider including a timeframe as a way to measure facilities' willingness to timely return to compliance.

IEPA ensured 15 of the 23 facilities corrected problems and sent them return to compliance letters. One facility had not returned to compliance and IEPA had not verified corrections at the other seven facilities. IEPA committed to follow-up on the status for the remaining 172 compliance assistance surveys conducted in fiscal year 1997. This follow-up will show facilities that IEPA is committed to the compliance assistance approach and that facilities need to address the problems identified.

CONCLUSION

Region 5 and IEPA need to improve the accuracy of RCRIS data entry. Accurate data are essential for determining a facility's compliance history and each agency's enforcement activities. This helps to ensure that Region 5 and IEPA are taking appropriate and timely actions to prevent the release of hazardous waste into the environment. Entry of compliance assistance survey data also helps to show that IEPA is taking additional measures to ensure that more facilities are taking the appropriate steps to prevent hazardous waste releases. Accurate data are also essential for the public's right-to-know, so that citizens and communities can make informed environmental decisions and businesses will have an incentive for improving environmental management.

RECOMMENDATION

We recommend that the Acting Regional Administrator, Region 5, establish specific procedures for data entry to ensure adequate controls over Regional and state RCRIS input.

**SUGGESTED
IMPROVEMENTS**

Because IEPA is not required to conduct compliance assistance surveys, we are not making formal recommendations. However, we suggest that the Director, IEPA, revise compliance assistance survey procedures to ensure that: (1) information is accurately coded in RCRIS, (2) all deficiencies are input, and (3) letters to facilities include timeframes for corrective action.

AGENCY ACTIONS

In responding to our draft report, the Acting Regional Administrator, Region 5, acknowledged that continuous improvement is essential in carrying out established procedures for data entry to ensure adequate controls over Regional and state RCRIS input. The Acting Regional Administrator provided a draft fiscal year 1999 Action Plan which includes milestone dates for RCRIS activities. For example, Region 5 is enhancing the accuracy of RCRIS data through a one-time review of event records.

STATE ACTIONS

In response to our suggested improvements, IEPA has revised its compliance assistance survey procedures to ensure: (1) activities are more accurately reflected in RCRIS, (2) all deficiencies are entered in RCRIS, and (3) facilities are provided with a timeframe for returning to compliance.

OIG EVALUATION

Region 5's Action Plan, when finalized and implemented, will address the recommendation in this report. IEPA's actions address the suggested improvements in this report.

Scope, Methodology, and Prior Audit Coverage

SCOPE AND METHODOLOGY

Our audit focused on IEPA's and Region 5's RCRA programs. We performed our fieldwork from July 9, 1998 to December 29, 1998.

We selected IEPA for review based on: (1) RCRIS and Biennial Reporting System data, (2) Headquarters Office of Enforcement and Compliance Assurance information on SNCs identified in Region 5 from 1993 through 1998, (3) sample inspection reports, (4) Region 5 input, and (5) the centralization of IEPA files. RCRIS tracks Subtitle C facility-specific data related to hazardous waste generators, transporters, and treatment, storage, and disposal facilities. The Biennial Reporting System tracks large quantity generators' and treatment, storage, and disposal facilities' hazardous waste activity reports. Although we used data from the RCRIS and Biennial Reporting systems, we did not evaluate the adequacy of the controls over the systems.

To accomplish our objectives, we reviewed applicable policies and guidance and interviewed IEPA and Region 5 officials. We used the following EPA guidance as criteria to evaluate enforcement activities:

- Enforcement Response Policy, December, 1987.
- Hazardous Waste Civil Enforcement Response Policy, March 15, 1996.

To evaluate enforcement activities for IEPA and Region 5, we randomly selected 10 percent, or 51 facilities, from a RCRIS list of 512 IEPA facilities where violations were identified during calendar years 1995, 1996, or 1997. Because IEPA and Region 5 both inspected some facilities, file reviews focused on the agency that performed the most recent enforcement activity at a facility.

The sample consisted of 48 facilities IEPA monitored and three facilities Region 5 monitored.

Our final sample of IEPA cases consisted of 50 (48+3-1) facilities. In addition to the 48 facilities we selected randomly, we judgementally selected three additional facilities from an SNC list generated from the State's internal tracking system. We did this to ensure that we reviewed some facilities that IEPA identified as SNCs. We deleted one case from our sample because the facility, selected from IEPA's list, violated only state regulations. Of our final sample of 50, IEPA inspected 27 facilities and our conclusions are discussed in Chapter 2. IEPA performed compliance assistance activities at the remaining 23 facilities and our findings are discussed in Chapter 3.

Our final sample of Region 5 cases consisted of 12 (3+12-3) facilities. In addition to our original random sample of 3 facilities, we randomly selected 12 facilities from 31 facilities listed in the RCRIS printout where Region 5 performed the most recent enforcement activity. We selected the additional facilities to ensure an adequate review of Region 5 activities. However, we later deleted three cases because they were not applicable to the objectives of our review.²

During the audit, IEPA and Region 5 corrected several RCRIS inaccuracies that we identified. Chapter 3 contains information regarding the types of problems identified and the corrective actions taken.

² One case was a review of documentation and subsequent referral for Comprehensive Environmental Response, Compensation, and Liability Act violations. The second case showed a pending violation for a multi-media inspection, but no RCRA violations were identified. The third case was a joint inspection where Region 5 officials accompanied IEPA on an inspection.

**PRIOR AUDIT
COVERAGE**

In March 1998, the OIG issued a report regarding EPA Region 10 and the Washington Department of Ecology's SNC Enforcement (Report No. 8100093). The audit found that Region 10 needed to: (1) ensure that the State's enforcement program is consistent with EPA policy and (2) include deadlines in informal enforcement actions. The audit also found that the State did not always: (1) document return to compliance or (2) perform follow-up inspections, where appropriate. The OIG is currently performing similar work in Regions 1 and 3 which also identified problems with SNC enforcement.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

MAR 03 1999

MEMORANDUM

SUBJECT: Draft Report for the Audit of Resource Conservation and
Recovery Act Programs

FROM: David A. Ullrich
Acting Regional Administrator

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

Thank you for the opportunity to review and respond to the draft report, attached to your January 28, 1999 memorandum on the same subject.

The Waste Pesticides and Toxics Division (WPTD) reviewed the report and acknowledges the conclusion on page 7 that Region 5 "generally identified and performed appropriate enforcement of significant non-compliers, thereby effectively reducing risks to human health and the environment." WPTD also acknowledges that continuous improvement is essential in carrying out established procedures for data entry to ensure adequate controls over Regional and State RCRIS input. To that end, I have attached a copy of our draft RCRIS Action Plan for FY99.

If you wish to discuss these comments or any other aspect of our review of the draft report, please contact me at your earliest convenience.

David A. Ullrich

Attachment

Note: The original response was signed by David A. Ullrich.

U.S. EPA REGION 5
RCRIS ACTION PLAN FOR FY99

Category 1: One-time basic RCRIS maintenance actions.

Desired Results: These activities will enhance the accuracy and completeness of our RCRIS records for tracking programmatic activities and for Internet presentation of data records to the regulated community and the public.

Category 2: Ongoing basic RCRIS review and maintenance actions.

Desired Results: These activities will ensure that RCRA program offices and States are reviewing and updating specific RCRIS records on a periodic basis throughout the year.

Category 3: Transitional activities for moving RCRIS to the new web based RCRA INFO platform and development of our revised data management tracking and reports menu system.

Desired Results: Provide streamlined data entry and retrievals of detailed programmatic activities for both federal and State RCRA programs. Easy access and sharing of data are keys to maintaining a strong working relationship with our State partners.

U.S. EPA REGION 5
RCRIS ACTION PLAN FOR FY99

Category 1: One-time basic RCRIS maintenance actions.

Desired Results: These activities will enhance the accuracy and completeness of our RCRIS records for tracking programmatic activities and for Internet presentation of data records to the regulated community and the public.

Key Activity	Responsible Individual(s)	Due Date	Status
A. Review and assess the accuracy of all CA210 event records (referred to a non-RCRA authority, 96 total for Region 5) and all permit module process file "SF" operating status codes (referred to CERCLA or other authority, 32 total for Region 5). Necessary data changes will be forwarded to the appropriate RCRIS Module Specialist for follow-up data entry.	CA Program Staff and RCRIS Module Specialist		This will be a coordinated effort between IMS and our CA program sections. RCRIS reports pulled by IMS staff will be reviewed by CA program staff. Section chiefs are scheduled to meet 12.11.98 to finalize actions.
B. Review and assess the accuracy of all CA999 event records (CA process terminated, 122 total for Region 5). Necessary data changes will be forwarded to the RCRIS CA Module Specialist for follow-up data entry.	CA Program Staff and RCRIS Module Specialist		This will be a coordinated effort between IMS and our CA program sections. RCRIS reports pulled by IMS staff will be reviewed by CA program staff. Section chiefs are scheduled to meet 12.11.98 to finalize actions.

Key Activity	Responsible Individual(s)	Due Date	Status
<p>C. Prepare and send letters to Illinois and Wisconsin regarding current RCRIS IOR table settings for corrective action, procedures used for CA data entry, and ongoing universe maintenance in RCRIS. Also, conduct follow-up discussions with all States to remind them of the availability of RCRIS fields to record voluntary State CA activities and provided additional CA data entry training for State offices as needed.</p>	<p>RCRIS IMS State Coordinators</p>	<p>01.31.99</p>	<p>Illinois and Wisconsin may be ready to take on CA data management activities later this year. The individual State Coordinators will prepare and send letters to these two States. State Coordinators will also work with CA program staff to coordinate and plan any additional training need by our States.</p>
<p>D. Review and update RCRIS SNC indicators for EPA lead evaluations and enforcement actions. Coordinate review and updates for State lead evaluations and enforcement actions with individual State offices.</p>	<p>RCRIS Module Specialist and Enforcement Program RCRIS Specialist</p>	<p>1.31.99</p>	<p>This project was discussed with all States at the November RCRIS/BRS conference in Chicago. Follow-up coordination will be performed until this project is completed.</p>

Key Activity	Responsible Individual(s)	Due Date	Status
E. Review all final closure records in RCRIS to ensure that all closed process units have up-to-date process status codes and complete closure event records. Document any needed adjustments in process status codes or event records, as agreed on with State offices, for data entry into RCRIS.	IMS State Coordinators	3.15.99	IMS State Coordinators will review comprehensive permit module reports to identify questionable records. Necessary updates will be made after discussions with State offices. Accurate closure records will ensure that RCRIS TSD universes for permitting, enforcement and CA are correct.
F. FII handler information reviews and data updates.			
G. Establish an updated record of locational reference tables used in our R5 EJ GIS mapping system. Identify any current locations data gaps in these tables and update as needed. Facilities which are currently not included, but having recent enforcement/CA/BRS activities will be added.	RCRIS Team	4.1.99	Updates will ensure that all significant facilities are presented in EJ GIS mapping products.
H. Other special maintenance projects as they are brought to the attention of the RCRIS team. A good example of this was the recent Sector Facility Indexing Project launched by the OECA office in headquarters.	RCRIS Team	Ongoing	

**U.S. EPA REGION 5
RCRIS ACTION PLAN FOR FY99**

Category 2: Ongoing basic RCRIS review and maintenance actions.

Desired Results: These activities will ensure that RCRA program offices and States are involved in reviewing and updating specific RCRIS records on a periodic basis throughout the year.

Key Activity	Responsible Individual(s)	Due Date	Status
A. Run selected RCRIS reports showing recent programmatic activities and data assessment reports for distribute to program office contacts for review and feedback.	RCRIS Module Specialists	As shown on the attached reports schedule.	Permitting and CA program PAR reports, RECAP enforcement activity reports, other specific programmatic activities tracking reports, and data assessment reports will be distributed.
B. Perform monthly RCRIS databases merges and programmatic universe calculations to maintain current RCRIS records in the Merge and National Oversight RCRIS databases.	RCRIS DBA	Monthly as shown in the attached merge cycle calendar	Ongoing
C. Coordinate data entry into appropriate RCRIS databases as updates are received from program offices and the regulated community.	RCRIS Module Specialists	Ongoing	Ongoing

Key Activity	Responsible Individual(s)	Due Date	Status
D. Run new RCRIS data assessment reports as they are developed and become available to review CM&E, permitting and CA data records.	RCRIS Team	Ongoing	As new reports become available additional data assessments will be performed.
E. Hold conference calls with State contacts twice a month to review current HW data management issues. Plan visits to State offices and necessary training.	IMS State Coordinators	Ongoing	Visits to State offices and necessary training will vary from State to State.
F. Enter CA725 and CA750 environmental indicator event records and status codes as they are received from program staff.	RCRIS CA Module Specialist	Ongoing	Ongoing.

U.S. EPA REGION 5
RCRIS ACTION PLAN FOR FY99

Category 3: Transitional activities for moving RCRIS to the new web based RCRA INFO platform and development of our revised data management tracking and reports menu system.

Desired Results: Provide streamlined data entry and retrievals of detailed programmatic activities for both federal and State RCRA programs. Easy access and sharing of data are keys to maintaining a strong working relationship with our State partners.

Key Activity	Responsible Individual(s)	Due Date	Status
A. Host a meeting with Region 5 States to review and discuss the WIN business systems design team high level design proposal for an alternative platform for RCRIS and to plan our regional transition activities.	RCRIS Team	-	Completed on November 16 & 17, 1998.
B. Integrate the new GPRA baseline universes for CA, permitting and post-closure into the Region 5 RCRIS reports and menu system to facilitate report retrievals for these new universes.	RCRIS Team	-	Completed November 16, 1998.

Key Activity	Responsible Individual(s)	Due Date	Status
C. Facilitate the development of RCRA INFO management tracking reports and revisions to existing RCRIS reports for R5 and State RCRA program offices.	RCRIS Team	Ongoing	Coordination with permitting, enforcement, and CA program managers is ongoing.
D. Plan and prepare follow-up actions for ensuring that all RCRA INFO CA events are linked to correct areas and authorities before conversion.	RCRIS Team		We are working closely with the business systems design team on this issue.
E. Revise R5 RCRIS reports and menu system as necessary when national changes/updates are completed.	RCRIS Module Specialists/ RCRIS Team	Ongoing	Ongoing.
F. Address training needs of R5 and State personnel on Oracle and other software to be used in support of RCRA INFO.	RCRIS Team	Ongoing	Ongoing

RCRIS Report Retrieval Schedule - FY 99

Handler

Report Name and Specifications	Customer Name	Delivery Date	IMS Person Responsible	Comments
State One Liner: 1) Alpha Sort 2) Numeric Sort 3) City Sort	IMS Staff (FOIAs)	Bi-Monthly 15th of the month (February, April, June, August, October, December)	Chris Klemme	
One-liner (internal) Report - -3 sets of all 6 states - 1) Alpha Sort 2) Numeric Sort 3) City Sort	Records Center	Quarterly 15th of the month (January, April, August, October)	Sharon Kiddon	

Corrective Action

Report Name and Specifications	Customer Name	Delivery Date	IMS Person Responsible	Comments
Corrective Action Status Report	ECAB and Section Chiefs WMD and Section Chiefs	By the 15th of each month	Rachel L. Griffin	
Corrective Action Detailed Verification Report	IMS Files	Quarterly 15th of the month (March, July, September, December)	Rachel L. Griffin	FYI File Copy
Corrective Action Program Accomplishments Report and Data Assessment Report	Gerry Phillips Joe Boyle Karl Brenner	As needed	Rachel L. Griffin	Use of this report anticipated to increase in FY99

RCRIS Report Retrieval Schedule - FY 99

Compliance Monitoring & Enforcement

Report Name and Specifications	Customer Name	Delivery Date	IMS Person Responsible	Comments
Comprehensive CAFO Report 1.) Upcoming Scheduled Dates 2.) Overdue CAFOs	Cora I. Helm and/or Joe Boyle	By the 15th of each Month	Rachel L. Griffin	
RCRA Evaluation Accomplishments	ECAB State Coordinators SPAS State Coordinators IMS Files	By the 15th of each Month By the 15th of each Month By the 15th of each Month	Cora I. Helm Rachel L. Griffin Rachel L. Griffin	Beginning of Fiscal Year to Present
Comprehensive Enforcement Report with Summary Charts	ECAB State Coordinators SPAS State Coordinators	By the 15th of each Month By the 15th of each Month	Cora I. Helm Rachel L. Griffin	Beginning of Fiscal Year to Present
CME RECAP Report	ECAB	As needed basis	Rachel L. Griffin	Use of this report anticipated to increase in FY '99
CME Verification Report	IMS File Copy ECAB File Copy	Quarterly 15th of the month (March, July, September, December) By the 15th of each month	Rachel L. Griffin Cora I. Helm	

RCRIS Report Retrieval Schedule - FY 99

Permitting

Report Name and Specifications	Customer Name	Delivery Date	IMS Person Responsible	Comments
Comprehensive Permitting/Closure/Post Closure Report with all Unit Group Information	Hak Cho, IL/IN/MI Harriet Croke, MN/OH/WI IMS File	Quarterly 15th of the month (March, July, September, December)	La Nita Y. Marrable	
Permitting/Closure/Post Closure Program Accomplishment Report	Karl Brenner Hak Cho Harriet Croke	As needed basis	La Nita Y. Marrable	Use of this report anticipated to increase in FY99

RCRIS Report Retrieval Schedule - FY 99

Maintenance

Report Name and Specifications	Customer Name	Delivery Date	IMS Person Responsible	Comments
Merge reporting cycle including the extracts, updates, refreshes, rebuilds and universe calculations for RCRIS. Electronic submission to the customer as an extract. 72 reports compressed.	Headquarters National Oversight Database (NODB)	1st Tuesday and 1st Wednesday of the month	Anthony Ward	
Merge edit detail (edit error) report. Electronic submission and hard copy of reports to the States and Region. 12 reports submitted & distributed.	Region 5 State DBAs and Regional Handler module specialist and /or contractor.	2nd Tuesday of the month	Anthony Ward	
RACF Security reports are run to keep track of users and the accounts they are working under. Divisional cost reports for tracking expenditures. 12 hard copy reports are ran.	Resource Mgmt. Staff on the 9th floor and my own use (Tony Ward) for tracking all users in the States and Region.	Quarterly 4th Thursday of the month (January, April, August, October)	Anthony Ward	

RCRIS Report Retrieval Schedule - FY 99

Electronic System/Reports (Electronic Reports)

System/Reports	IMS Responsible Person	Comments
RCRIS INFO	Anthony Ward	
Region 5 (Mapping Data Assessment Program with E.J Capabilities)	Kim Belveal	
Electronic Version of RCRIS Comprehensive Reports for (CME, CA Permitting and Notification (one-line)	Marie Oliver	



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 ~~May A. Gable, Director~~

217/782-3397

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MAR 15 1999

March 10, 1999

U.S. EPA REGION 5
OFFICE OF REGIONAL ADMINISTRATOR

Mr. David Ullrich, Acting Regional Administrator
United States Environmental Protection Agency (Region 5)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Dear Mr. Ullrich:

With this letter, the Illinois EPA is transmitting comments in response to the *Draft Report for the Audit of Resource Conservation and Recovery Act Programs*. The report, dated January 28, 1999, is based on an August 1998 audit of Region 5's and Illinois EPA's RCRA compliance programs. The audit was conducted by Region 5's Office of Inspector General (OIG).

I have been informed by Illinois EPA personnel directly involved in the audit process that OIG personnel that conducted the audit should be commended for the thorough and professional manner in which the audit was performed. Several valuable recommendations have been identified in the draft report and, as you will see in our comments, the Illinois EPA has acted on all the recommendations identified through the revision of our Compliance Assistance Survey (CAS) procedures (see second enclosure).

Please do not hesitate to contact me if you have any questions or concerns relating to the enclosed comments.

Sincerely,

Thomas V. Skinner
Director

ENCLOSURES

cc: Howard Levin, Audit Liaison (Region 5)

Printed on Recycled Paper

Note: The original response was signed by Thomas V. Skinner and enclosures are not included.

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