



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

This review is part of a series the Office of Inspector General is conducting of U.S. Environmental Protection Agency (EPA) oversight of State enforcement programs. We assessed whether EPA's memoranda of agreement (MOAs) with States related to the National Pollutant Discharge Elimination System (NPDES) program impede consistent EPA-State enforcement and to what degree MOAs comply with federal requirements under the Clean Water Act (CWA).

Background

The CWA allows EPA to authorize States to operate the NPDES program if States meet certain criteria. States cannot operate NPDES programs on behalf of EPA without an authorizing MOA. MOAs should establish the foundation for EPA management control and oversight, ensure that CWA goals are being met, and ensure national consistency of State NPDES programs.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2010/20100914-10-P-0224.pdf

EPA Should Revise Outdated or Inconsistent EPA-State Clean Water Act Memoranda of Agreement

What We Found

NPDES MOAs between EPA and States do not ensure Agency management control and effective oversight over a national program administered by States that is capable of providing equal protection to all Americans. EPA Headquarters does not hold EPA regional or State offices accountable for updating their MOAs when necessary and relies on other planning and management mechanisms to exercise control over State programs. However, MOAs are critical because they are the common denominator for State-authorized programs and should represent a common baseline. Outdated MOAs or MOAs that are not adhered to reduce EPA's ability to maintain a uniform program across States that meets the goals of CWA sections 101 and 402. An effective national program must maintain consistent management control and oversight of State programs.

What We Recommend

We recommend that EPA ensure that all NPDES MOAs contain essential elements for a nationally consistent enforcement program, including CWA, Code of Federal Regulations, and State Review Framework criteria. We recommend that EPA develop and provide a national template and/or guidance for a model MOA; direct EPA regions to revise outdated or inconsistent MOAs to meet the national template and standards; and establish a process for periodic review and revision of MOAs, including when the CWA or Code of Federal Regulations are revised or when State programs change. Finally, we recommend that EPA establish a national, public clearinghouse of all current MOAs so that EPA, States, and the public have access to these documents.

EPA generally agreed with our recommendations, saying it would coordinate assessment and revision of NPDES MOAs with implementation of the CWA Action Plan. Three recommendations are open and one recommendation is listed as undecided. In its final response to this report, EPA should provide estimated or actual completion dates for all recommendations.