



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Annual Superfund Report to Congress

Fiscal 2002



OIG Scorecard Summary of Superfund Results

Actions Contributing to Improved Environmental Quality and Human Health- Superfund

- 20 Environmental Recommendations
- 5 Environmental Risks Identified
- 2 Examples: Environmental Policy, Regulatory, Practice, Process Actions, or Changes
- 9 Environmental Risks Reduced

Action Improving EPA's Management, Accountability, and Program Operations-Superfund

- 29 Recommendations for management Improvements/Additional Review
- 4 Best Management Practices Identified
- 2 Certifications for Action
- 6 Best management Practices Implemented
- 5 Examples: Management Policy, Practice, Process Actions, or Changes
- 4 Criminal, Civil, Administrative Actions
- \$251K Monetary Fines, Questioned Costs, and Efficiencies/Savings exclusive of contracts and Single Audits from audits by Defense Contract Audit Agency, Certified Public Accountants and Federal Auditors

72% OIG Customer Satisfaction Rating on Superfund Assignments (based on survey)

Foreword

This report covers fiscal 2002 activities of the Environmental Protection Agency (EPA) Office of Inspector General (OIG), and is our 16th Annual Superfund Report to the Congress. The Superfund Amendments and Reauthorization Act of 1986 requires the OIG to annually audit the Superfund program and report the results to Congress. This report summarizes some of our more significant highlights for the reporting period.

In April 2002, the OIG assumed responsibility for EPA's Superfund Ombudsman function. Ombudsman work involves conducting fact-finding inquiries, developing options to deal with difficult problems, and making recommendations to Agency senior management regarding procedural and policy changes that will improve the Superfund program.

I am pleased to report that the OIG issued an unqualified opinion on EPA's fiscal 2002 financial statements, including those of the Hazardous Substance Superfund. While the Agency continues to correct longstanding problems, we found some internal controls still needed to be strengthened. These issues were not material weaknesses which would affect the reliability of the financial statements. The Office of Chief Financial Officer generally concurred with our recommendations.

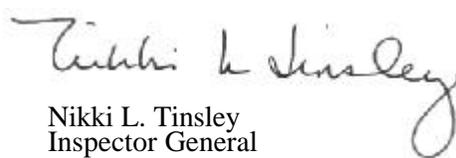
EPA continued to address vast and complex environmental issues in its waste management and cleanup programs, but challenges remain. Most notably, recent indepth studies of the Superfund program have identified major

challenges EPA may face in paying for cleanups, based on current Trust Fund balances and expected cleanup needs in the future. This financial situation has generated suggestions for running the program more efficiently as well as legislation to reauthorize taxes on industry, which formed the original basis of the Superfund program.

Key challenges and questions in the Brownfields program were largely related to EPA's ability to implement the newly authorized nationwide Brownfields program. The new program provides funding opportunities for new entities and cleanup activities, introducing new challenges that EPA must manage.

The Resource Conservation and Recovery Act program faces potential problems in meeting future environmental challenges. It is anticipated that the current system for waste management in the United States will need to change in order to meet the environmental challenges of the coming decades. Changes will be necessary to accommodate and respond to continuing trends in the use of more chemicals and new chemical risks; improved methods for measuring and managing chemical risks; a more global and integrated world economy; and new technologies and industries affecting how resources are used and disposed of, among others.

We plan to evaluate key issues in each of the three waste management program areas discussed above (Superfund, Brownfields, and RCRA). I remain confident that the collaborative efforts of Agency and OIG staff will result in the resolution of hazardous waste management challenges and a cleaner, healthier global environment.



Nikki L. Tinsley
Inspector General

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The complete text of selected reviews is available through the EPA OIG internet home page. <http://www.epa.gov/oigearth>



EPA Ombudsman Responsibility Transferred to OIG

In April 2002, the OIG assumed responsibility for EPA Superfund National Ombudsman reviews. EPA's National Superfund Ombudsman was previously housed in the Office of Solid Waste and Emergency Response (OSWER). Ombudsman work had focused on citizen complaints regarding hazardous waste management and cleanup operations.

One of the initial tasks of the acting OIG Ombudsman was to identify and research the open cases transferred from OSWER's National Ombudsman. We identified 25 open cases from the prior National Ombudsman and have received an additional 7 requests for assistance. The OIG had previously initiated and is conducting an assignment for 1 of the 25 transferred cases: World Trade Center. As of September 30, 2002, we have closed five cases, including three transferred cases and two new

cases. We are making significant progress on the remaining cases.

EPA Inspector General Nikki Tinsley testified before the Senate Environment and Public Works Committee on the progress being made on implementing and operating the EPA Ombudsman function in the OIG, assuring the Committee that Ombudsman work will be conducted "with independence and professionalism." The Inspector General also pointed out that the OIG would be able to undertake a much larger range of work. "As part of the transfer, we have expanded the services of the Ombudsman to include all EPA administered programs, rather than limiting it to only Superfund and hazardous waste issues." She also noted the Ombudsman will be able to draw from OIG's large pool of resources.

Assistance to EPA Management

In addition to our traditional mandated and self-initiated work, the OIG responds to EPA management requests for review of vulnerable program areas and OIG input in the development of regulations, manuals, directives, guidance, and procurements. These are efforts to prevent problems that might later result in negative findings or investigative results, or to respond to prior audit findings. The OIG reviews and comments on draft documents prepared by Agency offices. OIG staff also participate in conferences and EPA work groups to provide input.

The OIG continued such efforts in fiscal 2002 to assist EPA management both in work specifically focused on Superfund and in crosscutting work affecting Superfund. We summarize below some of our other Superfund-related activities assisting management.

Superfund Senior Regional Management and Acquisition Council Participation Continues

Representatives of the EPA OIG continued to attend and participate in biannual meetings of the Superfund Senior Regional Management and Acquisition Council.

The Council's meetings are designed to:

- (1) promote quality in contracts management;
- (2) share regional successes and new ideas for managing Superfund contracts; and
- (3) resolve cross-cutting acquisition issues.

The Council also represents an excellent opportunity for the

exchange of information, ideas, and opinions between the OIG and various Superfund acquisition and program officials.

At a June 2002 meeting, we provided an update on current and future OIG contract audits, many of which focus on Superfund contracts.

Innovative Tool Put Online to Identify Cross-Agency Environmental Efforts

To fully understand and resolve environmental challenges, we determined it was necessary to look beyond the boundaries of EPA, and consider other sources of information, research, and innovative tools in the field of environmental protection.

To address this challenge, the EPA OIG developed an online Compendium of Federal Environmental Programs to identify the various Federal agencies that participate in environmental protection. With the support of the President's Council on Integrity and Efficiency and other Federal OIGs, we identified 29 Federal agencies that collectively share responsibility for clean air, clean and safe water, and better waste management.

We organized our research into a web-based database accessible from the EPA OIG's home page (<http://www.epa.gov/oigearth>). To access the database and accompanying narrative report, click "Compendium of Federal Environmental Programs" on our home page.

Hazardous Substance Superfund Trust Fund

The Government Management Reform Act requires Federal agencies to prepare annual audited financial statements. The requirement for audited financial statements was enacted to help bring about improvements in agencies' financial management practices, systems, and controls so that timely, reliable information is available for managing Federal programs. One of the major entities covered by these financial statements is the Hazardous Substance Superfund Trust Fund. The EPA OIG's requirement to audit EPA's financial statements also meets our CERCLA audit requirement to annually audit the Superfund Trust Fund, which we previously referred to as our Trust Fund audit. The following summary of our fiscal 2002 financial statement audit relates to all findings resulting from our audit of EPA's financial statements, including those of the Hazardous Substance Superfund Trust Fund.

EPA Earns Unqualified Opinion on Financial Statements

EPA earned an unqualified opinion on its fiscal 2002 financial statements. In evaluating EPA's internal controls, we identified reportable conditions in the following seven areas. We do not believe these issues are material weaknesses which would prevent the fair presentation of reliable financial statement amounts.

- **Documentation and Approval of Journal Vouchers** - EPA did not always adequately document vouchers and obtain appropriate approval signatures.
- **Reconciling Unearned Revenue for State Superfund Contracts** - EPA did not reconcile the unearned revenue from State Superfund Contracts to the general liability account - Unearned Advances. As a result, EPA could not ensure the accuracy of the State Superfund Contract unearned revenue accounts totaling about \$45 million. Additional OIG work enabled the Agency to post adjustments to reduce the variance.
- **Reconciling Deferred Cashouts** - EPA did not properly reconcile Superfund cashouts at the regional level. Cashouts are funds that EPA receives from Potentially Responsible Parties, in advance, to settle their liability for future response costs within the terms of a consent decree, administrative order, or other settlement agreement.
- **Integrated Grants Management System Security Plan** - The security plan did not adequately describe the security requirements or the controls used to protect the system and its data, including requirements by the National Institute of Standards and Technology. Additionally, the plan did not include all Core Financial System technical requirements mandated by the Joint Financial Management Improvement Program.
- **Automated Application Processing Controls for the Integrated Financial Management System** - As first reported in our fiscal 1995 audit, we continue to be unable to assess the adequacy of the automated internal control structure as it relates to automated input, processing, and output controls of EPA's automated accounting system. EPA is moving towards replacing its current accounting system; however, until the new system is in place, we will not be able to assess the adequacy of the automated internal control structure.
- **Capitalization of Superfund Contractor-Held Property** - EPA expensed all costs (about \$33.3 million) for contractor-held property used for Superfund site-specific projects instead of capitalizing and depreciating these costs in accordance with Federal accounting standards. As a result, EPA was understating the value of its property in the possession of contractors. Subsequently, the agency made the proper adjustments.
- **Revenue Recognition on Cashouts** - EPA overstated a fiscal 2001 Superfund financial statement adjustment for earned revenue from past costs in Superfund special accounts by \$53 million. This also affected the fiscal 2002 Superfund financial statements by understating liabilities and overstating income. Subsequently, the agency restated fiscal 2001 and made adjustments for fiscal 2002.

Our tests of compliance with laws and regulations did not identify any instances of noncompliance with laws and regulations that would materially misstate the financial statements. However, we did identify four noncompliances under the Federal Financial Management Improvement Act (FFMIA). These noncompliances do not meet the Office of Management and Budget's (OMB) definition of substantial noncompliance.

- **Managerial Cost Accounting Standard** - Although the Office of the Chief Financial Officer (OCFO) has made improvements in cost accounting, more needs to be done to ensure that EPA provides full cost reports that are timely and useful to management.
- **Reconciling Intra-Governmental Transactions** - As reported in previous audits, EPA, as is the case with other Federal agencies, continues to experience difficulties in reconciling some of its intra-governmental assets and liabilities because some other Federal agencies did not perform reconciliations. Without the proper confirmations from its trading partners, EPA has limited assurance that intra-governmental balances are accurate.
- **Contract Payment System** - This system was not in compliance with some Joint Financial Management Improvement Program system requirements. Without the current interface controls meeting those requirements, the system could not provide the intended level of assurance regarding the complete and accurate transfer of contract payment information into EPA's accounting system.
- **Fiscal 1999 FFMIA Remediation Plan** - FFMIA requires a remediation plan to bring the Agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made that the systems are not in substantial compliance with FFMIA. In an August 2002 status report to OMB, EPA reported that all corrective actions under its remediation plan were completed in June 2002. However, we found that two key actions (implement a security certification process for key personnel and establish a process for the Chief Information Officer's independent review of security program effectiveness) were not completed.

Our tests of compliance with other laws and regulations also disclosed an additional instance of noncompliance related to the:

- **Treasury Financial Manual for Preparation of Statement of Transactions (Form 224)** - EPA reported information based on Treasury records rather than EPA's actual general ledger amounts. This practice prevented differences between the Treasury records and the EPA general ledger from being reported by Treasury on the Statement of Differences. Such reporting could result in a misstatement of EPA's Fund Balance with Treasury account, as well as a misstatement of EPA's annual financial statement amounts.

In its response to our draft report, OCFO generally concurred with our recommendations and noted the completion or planning of a number of corrective actions. OCFO did note that they believe they are complying with the Managerial Cost Accounting Standard by preparing quarterly subobjective level reports, taking actions to execute the Agency's plan for expanding cost information, and moving from 10 goals to 5 in the new Strategic Plan. We recognize improvements the Agency has made in this area, but do not agree that the subobjective level reports provide useful, timely, and full cost information. OCFO also stated that they developed a new process and a report for reconciling the Contract Payment System with the Integrated Financial Management System, but we did not review the new process and report because they were developed after we completed our work.

We issued our final report (2003-1-00045) on January 29, 2003. A final response to the report is due by April 30, 2003. A copy of our report can be found at <http://www.epa.gov/oigearth>.

Cooperative Agreements

During fiscal 2002, the OIG issued two reports related to Superfund cooperative agreements. The reports, involving Washington, DC and Utah, are summarized below.

Washington, DC Department of Health Unable to Account for Superfund Cooperative Agreement Funds

We issued an adverse opinion on the Washington, DC Department of Health's claim for reimbursement of \$603,895 under Superfund Cooperative Agreement No. VC983169. The recipient had not developed and implemented a financial management system that was capable of accounting for the source and application of funds for federally sponsored activities, as required by EPA regulations.

Specifically, the recipient did not meet the cost sharing requirements contained in the agreement, and improperly combined the cost of two programs that had separate budgets and different cost sharing requirements. In addition, the recipient's timekeeping and labor distribution system was inadequate to identify and account for time spent on Federal assistance agreements because employee time records did not show the specific agreements they worked on or the activities they performed. EPA was unable to evaluate the recipient's progress in meeting the objectives of the agreement because the recipient's progress and financial status reports were often late and incomplete. Other deficiencies identified included: (1) an unsupported claim for reimbursement of indirect costs; and (2) untimely completion of Single Audits required by OMB Circular A-133.

We recommended that the Assistant Regional Administrator for Region 3: (1) suspend all activity and payment under Agreement No. VC983169 until the recipient can demonstrate accounting practices consistent with Federal requirements; (2) designate the recipient a high-risk grantee for other assistance agreements and develop a corrective action plan; (3) require the recipient to modify its financial management system to meet requirements; (4) require the recipient to develop a time distribution system that meets requirements; (5) recover all costs claimed under Agreement No. VC983169 unless the recipient properly separates, identifies, and submits appropriate financial status reports; and (6) terminate the agreement if the recipient does

not complete all corrective actions within 180 days.

We issued the final report (2002-1-00184) on September 26, 2002. A response is due by March 26, 2003.

Utah Took Appropriate Steps at Jacobs Smelter Site, Needs to Make Some Improvements in Accounting For Labor Costs

A review of the Superfund cooperative agreement for the Jacobs Smelter site found that, in general, the Utah Department of Environmental Quality (Utah) met the objectives of the cooperative agreement. At the time of our review, the cleanup work at the site (located in and around Stockton, Utah) was almost complete and was performed for less than half the originally anticipated cost of \$15.3 million, due to quality project management. In general, Utah exercised adequate controls over its financial management, accounting, procurement, and contract management systems, and complied with Federal regulations and cooperative agreement requirements.

Utah did need to make improvements in its accounting for labor costs. Utah was not providing the required 10 percent of payroll costs to the cooperative agreement. While Utah initially reallocated some payroll costs to meet the 10 percent match, it did not continue to do so. Utah officials stated that they intended on reallocating payroll costs quarterly but had forgotten to do so. Utah did not have a written policy requiring the payroll allocation be done quarterly.

We recommended Region 8 Acting Administrator require Utah officials to reallocate payroll costs to make up for the deficient state funding and to develop a policy to require personnel to perform the reallocation on a quarterly basis.

We issued the final report (2002-2-00001) on November 6, 2001. In response, Region 8 officials agreed to take actions to address the findings and recommendations.

Remedial Action Decisionmaking

In each Annual Superfund Report for the past two years, we explained that we have focused our attention on Superfund site characterization and remedy selection, in lieu of narrowly addressing the performance of remedial investigations and feasibility studies at Superfund sites. We have continued indepth reviews of the reliability of site-specific analytical data as a basis for sound site remediation decisions. The remedial investigation/feasibility study activity at Superfund sites is highly data dependent. If analytical data quality is inadequate, even strict adherence to Agency rules and guidance in carrying out the remedial investigation/feasibility study process will not ensure sound decisionmaking.

Assessments of instances of possible misrepresentation of analytical data produced in both Agency and contractor laboratories during fiscal 2000 and 2001 caused us to devote even more resources to such assessments in fiscal 2002. A fully functioning automated analytical data processing system enables us to review analytical data sets for indications of improper manual manipulation of noncompliant analytical

results to achieve method-specified or contract-specified quality. We use this tool to support ongoing investigations of suspected laboratory fraud and it is available for assessing analytical data quality on an ongoing basis.

We continue to believe that our resources are better used in seeking to ensure data of known quality to support Superfund remedial decisionmaking rather than devoting those resources to site-specific retrospective reviews of the remedial planning process. In addition to the investigative efforts discussed elsewhere in this report, the OIG has worked closely with the Agency's Office of Environmental Information to improve the quality of the data used to characterize Superfund sites. The OIG has participated in meetings of the Agency's *Workgroup to Develop Approaches for Detecting and Deterring Improper Practices in Analytical Laboratories*. Also, the Inspector General has addressed the American Council of Independent Laboratories on laboratory fraud detection and deterrence. Through these actions, the OIG is working to ensure that Agency decisions on site remediation are based on data of known quality.

Response Claims

Section 111(a)(2) of CERCLA, as amended by SARA, authorizes EPA to pay any claim for response costs incurred by "any other person" as a result of carrying out the NCP. Additionally, section 122(b)(1) of CERCLA, as amended by SARA, authorizes the President to reimburse Potentially Responsible Parties (PRPs) for "certain costs of actions under the agreement that the parties have agreed to perform but which the President has agreed to finance." The President delegated this authority to the EPA Administrator under Executive Order 12580, January 26, 1987, who further delegated it to EPA's Office of Solid Waste and Emergency Response. Authority for decisions regarding claims against the Fund is currently delegated to the Director, Office of Emergency and Remedial Response.

PRPs are required to enter into a Preauthorized Decision Document (PDD) with EPA to cover work for which some costs will be reimbursed. The PDD specifies the work to be performed, the portion of the cost that EPA will reimburse, and the procedures through which the PRPs can make claims for reimbursement.

Our response claim reviews are not audits, but rather follow instructions in the Agency's claims guidance for the claims adjuster.

Review of Second Parker Landfill Claim Results in Questioned Costs of \$265,010

We reviewed the second claim of \$1,629,445 submitted by Ethan Allen, Inc., for the remedial work performed at the Parker Landfill Superfund

Site in Lyndon, Vermont. We questioned a total of \$265,010 as unreasonable (\$29,932) and ineligible (\$235,078). The total Federal share of these questioned costs was \$124,554.

Under the PDD, Ethan Allen, Inc., is entitled to submit claims covering 47 percent of eligible costs, not to exceed a total of \$3,015,432. To date, the EPA has reimbursed Ethan Allen, Inc., \$1,941,875.

The \$29,932 (Federal share: \$14,068) of costs questioned as unreasonable represented a duplicate payment made by Ethan Allen, Inc., to one of its contractors. The \$235,078 (Federal share: \$110,486) in costs questioned as ineligible were legal fees and related costs for litigation support and mediation, incurred in association with a legal dispute between Ethan Allen, Inc., and its general contractor. The Consent Decree restricted reimbursement of attorneys' fees to costs incurred for four specific types of services and rendered any other types of attorneys' fees to be ineligible. The questioned costs associated with the legal dispute were not among the eligible types of services.

We issued our final report (2002-S-00001) on October 31, 2001. In response, the coordinating official accepted the questioned legal fees of \$235,078 based on the regional case review team's intent and interpretations of legal fees during the Consent Decree and Preauthorization Decision Document negotiations. As a result, only the unreasonable costs of \$29,932 were sustained.

Performance Reviews

In addition to reviews required by CERCLA, as amended, we conduct other reviews related to EPA's management of the Superfund program. We summarize below some particularly significant reviews of EPA management completed in fiscal 2002 not summarized elsewhere in this report.

Funding Needs for Superfund Sites

On April 17, 2002, Congressmen Dingell and Pallone of the House Energy and Commerce Committee requested that we summarize the funding needs of non-Federal NPL sites for fiscal 2002. On June 24, we reported that, at the time of our review, regions had requested \$450 million for remedial actions and EPA Headquarters planned to allocate approximately \$224 million. For long-term response actions, the regions requested \$46.7 million and \$33.2 million was planned for distribution. On July 31, the Inspector General testified on these results before the Subcommittee on Superfund, Toxics, Risk, and Waste Management of the Senate Committee on Environment and Public Works.

On August 26, the Chairs of the Committee and Subcommittee requested that we update this information to provide a complete picture of fiscal 2002 funding. On October 25, we reported that, after assessing changing site conditions, the regions estimated a need of \$417 million for remedial actions and EPA obligated \$320 million, a difference of \$97 million. For sites needing long-term response actions, regions estimated a need of \$60 million and obligated \$43 million, a difference of \$17 million.

EPA Needs to Improve Accuracy of Superfund Database

Over 40 percent of the site actions (activities) we reviewed in EPA's Superfund database were inaccurate or not adequately supported. This database – the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) – is the official repository for all Superfund site data. As a result of weaknesses noted, users of CERCLIS data did not have accurate and complete information regarding the status and activities of many Superfund sites, which can adversely impact planning and management.

CERCLIS is used by EPA to track site activities, support financial statements and other reports, maintain an inventory of hazardous waste sites, and project dates and costs. However, we identified actions with inaccurate dates, as well as actions not supported by appropriate documentation or approval signatures. Also, the status codes in CERCLIS were often incorrect for the NPL, non-NPL, and archive field data elements. Further, we found, primarily at non-NPL sites, inconsistent use of NPL and non-NPL status codes, active sites without any actions entered for at least 10 years, and frequent use of a nondescriptive status code. These weaknesses were caused by the lack of an effective quality assurance process over CERCLIS data quality and inadequate internal controls.

We recommended that EPA develop and implement a nationwide quality assurance process for CERCLIS data, and a process to review older sites that have not had any actions entered for a reasonable amount of time. We also recommended that EPA update policies and procedures.

We issued our final report (2002-P-00016) on September 30, 2002. EPA provided a final response to this report on December 24, 2002. EPA concurred with the recommendations contained in our report and indicated that many of the recommendations had already been addressed or actions were underway to address the remaining recommendations. Specifically, EPA undertook an initiative to establish a high-level Data Quality Steward to address our concerns regarding the quality assurance process for CERCLIS data. The Data Steward is charged with working with the Office of Emergency and Remedial Response and regional staff to develop a Data Quality Assurance/Quality Control (QA/QC) process. The QA/QC process is expected to be implemented by September 30, 2003. Additionally, EPA outlined various other plans to improve data quality processes. The proposed actions, once implemented, should adequately address our concerns.

Improvements Needed in EPA's Oversight of Department of Energy Superfund Cleanups

We evaluated the effectiveness of EPA Region 4 oversight of cleanup actions at the Department of Energy's (DOE's) Savannah River and Oak Ridge nuclear facilities. These sites, respectively, have the second and fourth highest estimated Superfund cleanup costs of all DOE facilities.

For both locations, the Federal Facility Agreement between EPA, DOE, and the applicable State are generally consistent with Superfund statutes and regulations. In addition, cleanup remedies approved under the agreements generally comply with Superfund statutes, regulations, and other applicable requirements. However, we noted the following:

Savannah River Site

Improvements are needed in EPA Region 4's oversight of DOE's implementation of cleanup actions at the Savannah River site, near Aiken, South Carolina. From 1996 through 2002, DOE discontinued evaluating or ranking sites on potential risks to the environment and human health. Although such rankings are required, EPA did not ensure they were conducted. This is particularly of concern because 80 percent of the sites receiving remedial action since cleanup agreements were reached were in the low risk category. Further, more than half (about 52 percent) of the estimated cleanup construction costs for Savannah River were used for low-risk sites. According to DOE, it has been necessary for them to focus their resources on low risk, presumably easier sites, in order to meet their internal goals associated with the number of cleanups completed per year.

Also, we found several instances where cleanup actions at Savannah River sites had been delayed because EPA has been late in responding to DOE cleanup decision documents. EPA was late in responding to 85 percent of the primary cleanup documents, due primarily to personnel shortages. Further, EPA did not properly review and comment on the last official DOE five-year review of the protectiveness of Savannah River cleanup remedies, and has not determined the total long-term estimated costs for Superfund cleanup actions at the Savannah River facility.

We made recommendations to the Region 4 Administrator to address the issues noted, including establishing improved oversight procedures to ensure that cleanups are properly prioritized based on risk and that there is sufficient Region 4 staff to provide oversight of cleanup actions and agreements. Further, we made recommendations to improve the five-year review and site evaluation processes, and to assist Region 4 in determining whether funding levels are adequate. In responding to our draft report, Region 4 agreed to improve oversight and, if available, allocate additional staff.

We issued our final report (2002-P-00014) on September 26, 2002. In response, the Agency indicated that: (1) by September 30, 2003, a new work planning process would be implemented at DOE Savannah River that prioritized highest risk sites and Region 4 would ensure that process was followed; (2) Region 4 declared the deficient regional staffing for Savannah River oversight as a management control weakness; (3) Region 4 assigned a staff member to ensure that five-year reviews were timely received from DOE and properly reviewed by Regional staff; (4) the recommended Federal Facility agreement revisions related to five-year reviews would be promulgated by September 30, 2003; and (5) Region 4 is currently receiving DOE long-term cost projections for long-term response actions and final cleanups in order to ensure adequate funding. The OIG closed the report based on the Agency's response.

Oak Ridge Site

Studies conducted by the State of Tennessee at this facility, located in Oak Ridge, Tennessee, have identified potential contaminants of concern that may not be accounted for in existing Federal Facility Agreement documents and DOE cleanup actions. Reviewing and evaluating the State reports, and comparing their results to existing information on contaminants at Oak Ridge, will improve EPA oversight of the facility.

In 1999, the Tennessee Department of Health issued a series of reports that showed that, in some cases, levels of pollutants being released from Oak Ridge were substantially higher than previously acknowledged by the Government. These reports were issued after EPA's review and concurrence with DOE's remedial investigations. However, neither DOE nor EPA had evaluated the impact the reports may have on current

cleanup activities or decisions. Consequently, EPA Region 4 cannot be assured that ongoing and proposed remedial actions are addressing all contaminants of concern and that relevant risks to human health and the environment are being addressed. In April 2002, during our review, EPA initiated a comparison of the State reports with all contaminants evaluated in the DOE remedial investigations and other relevant baseline assessments. However, because of limited contract resources, EPA estimated it would take at least two years to complete the review.

In addition, we noted that DOE had not acquired sufficient funding to support compliance with approved work plans and milestones specified in cleanup agreements for fiscal 2002 through 2004.

We recommended that the Region 4 Administrator expedite completion of the review and comparison of potential contaminants of concern identified in the State reports with past remedial investigation documents, and continue working with DOE to obtain a level of funding sufficient to perform required work. In response to draft report, Region 4 agreed with the recommendations and had already implemented the corrective actions.

We issued the final report (2002-P-00013), which was considered closed upon issuance, on September 26, 2002.

Brownfields Performance Measures Can Be Improved

The Brownfields program for cleaning up facilities needs improved performance measures. The program involves cleaning up for reuse abandoned, idle, or underutilized industrial or commercial facilities with real or perceived environmental contamination to protect human health and the environment. Congress has authorized \$200 million a year through fiscal 2006 to promote Brownfields redevelopment.

EPA's fiscal 2003 Annual Performance Plan identifies Brownfields program performance measures as cumulative site assessments, jobs generated, and leveraging of cleanup and redevelopment funds. However, these measures generally do not indicate EPA's progress in reducing or controlling risk to human health and the environment.

EPA can improve performance measures. EPA's data quality/management work group can review existing Brownfields performance measures and consider how provisions of the Brownfields Act and Government Performance and Results Act impact the quality, reporting, evaluation, and collection of Brownfields program data. Also, EPA could identify short-term or intermediate outcome measures, since it may take years for some Brownfields activities to have a noticeable impact on human health and the environment. Some possible short-term or intermediate measures EPA may consider adopting are acres of Brownfields remediated and redeveloped, and the population protected by Brownfields cleanup actions.

We issued our final report (2002-M-00016) on May 24, 2002. EPA concurred that action was needed to improve performance measures for the Brownfields program. The Agency is reviewing the measures we suggested in addition to others, and has requested our continued involvement with their efforts to implement new measures.

Draft Superfund Environmental Indicators Suitable, but Concerns Remain

We found that the two draft Superfund Environmental Indicators (EIs) reviewed – human exposure under control and contaminated groundwater migration under control – were suitable because they measure a state of the environment, rather than just mark the completion of an administrative step in the Superfund cleanup process. The two EIs are specific measures of program performance used to assess progress toward cleaning up a hazardous waste site. However, we identified some policy and technical issues that should be resolved.

The two draft EIs were modeled after EIs used by the Resource Conservation and Recovery Act (RCRA) Corrective Action Program, but we found several policy and technical differences between the EI documentation for Superfund and RCRA. We understand there are inherent distinctions between the Superfund and RCRA programs. Even so, we believe the policy and technical differences need to be resolved before implementation of the draft Superfund EIs, to ensure similar results.

We recommended that the Assistant Administrator for OSWER make changes to

resolve these policy and technical differences, make changes to the Superfund EI documentation, and develop supplemental EI guidance more applicable to Superfund. We also recommended that, in addition to the draft EIs of interim progress Superfund officials have already developed, Office of Solid Waste and Emergency Response officials partner with state officials to develop ecological and final EIs. Finally, since mega-sites (sites that will cost \$50 million or more for cleanup) will require extensive effort and resources, we suggested that Office of Solid Waste and Emergency Response officials

consider adopting a supplemental measure of interim cleanup progress specifically for mega-sites.

We issued our final report (2002-P-00003) on December 27, 2001. In response, the Assistant Administrator for Solid Waste and Emergency Response stated that the recommendations will be useful in improving their EIs and indicated they were making progress in resolving the issues highlighted in our report.

Investigative Activity

The OIG Office of Investigations (OI) continued to focus its investigative resources on allegations of fraud, waste, and abuse in high-risk and high-dollar EPA programs and administrative areas, including the Superfund program. High priority was also given to environmental programs and employees when the action under investigation had the potential to seriously undermine the integrity of the Agency and/or the public trust in its ability to carry out its mission to protect public health and safeguard the environment.

Proactive and reactive investigative efforts covered all stages of the Superfund program:

- OI's Laboratory Fraud Directorate continued its initiative to detect and investigate laboratory fraud within the environmental community, involving commercial, contractual, and Agency laboratories. Many of these laboratories conduct analysis and produce data that is used to make decisions concerning Superfund sites.
- OI's Financial Fraud Directorate continued major efforts in uncovering fraudulent activities in the award and performance of contract and assistance agreements. EPA programs, including Superfund, are dependent on contractors to perform a significant portion of the work related to EPA's mission.
- OI's Cyber Crimes Directorate continued to monitor previously identified computer security weaknesses, identify new and emerging vulnerabilities, and advise the Agency on any additional computer security enhancements that are needed. We continued to perform criminal investigations of intrusive activities affecting EPA systems and data.

During fiscal 2002, our Superfund investigative efforts resulted in:

- Three informations
- Three convictions
- Five civil actions
- Four administrative actions

Monetary fines, restitution, and recoveries resulting from Superfund investigations totaled more than \$18.4 million. We expect to see a continued increase in significant actions as OI's investigative emphasis on major Agency contracting and laboratory fraud continues to increase.

Following are two examples of Superfund investigative activities with results in fiscal 2002:

Firm Cited for Allegedly Falsifying Test Results

The investigation of Intertek Testing Services Environmental Laboratory (ITS), Richardson, Texas, was cited by the U.S. Attorney for the Northern District of Texas as the largest laboratory fraud investigation in the history of the United States. The ITS facility conducted as many as 25,000 separate analyses of air, soil, liquids, pesticides, explosives, and nerve-gas agents for both private firms and Government agencies. The test results, which allegedly were falsified, were used to monitor some of the nation's most polluted hazardous waste sites for, among other things, the presence of known or suspected human cancer-causing contaminants. After the inception of the investigation, the facility was shut down.

In September 2001, a Federal grand jury in Texas issued a 30-count indictment against 13 former lab workers and managers, charging them with conspiracy, mail fraud, wire fraud, and presenting false claims against the Government. The indictment accused the managers and chemical analysts at ITS with falsifying data samples from 1988 to 1997. According to Federal prosecutors, the defendants altered data to make testing instruments appear to be properly calibrated and within quality control limits when they were not.

ITS pled guilty to one count of conspiracy to commit an offense against and otherwise defraud the United States, in violation of 18 U.S. Code Section 371. In February 2002, ITS was sentenced as a corporation and ordered to pay a fine of \$9 million, a \$400 special assessment fee, and to serve 42 months of probation. In March 2002, ITS entered into a civil settlement agreement with the Department of Justice Civil Litigation Branch, Washington, DC, in which ITS agreed to pay the United States \$8,741,000 to resolve certain civil claims the United States had on behalf of the Army Corps of Engineers, the Department of Defense, and EPA. The criminal and civil action against ITS resulted in a total dollar recovery of \$17,741,400. In addition, five ITS employees pled guilty to criminal acts, while eight were acquitted of criminal culpability by a jury. The corporation and all 13 employees face suspension and debarment from Federal contracting.

The results of this investigation made a national impact on the laboratory community and resulted in the issuance of an open letter to the laboratory community by the EPA Inspector General. This investigation had a direct impact on EPA's mission to improve and protect environmental quality and human health.

This investigation was conducted jointly by the EPA OIG, the EPA Criminal Investigations Division, the Defense Criminal Investigative Service, the United States Army Criminal Investigation Command, and the Air Force Office of Special Investigations.

Accountant Pleads Guilty to Charges Related to Embezzlement

On June 3, 2002, Alfred S. Garappolo, a certified public accountant, pled guilty in U.S. District Court to one count of accessory after the fact to embezzlement and one count of concealing and covering up a material fact in connection with a criminal investigation. The guilty plea was pursuant to a criminal information against Garappolo charging him with offenses related to his position as an accountant for the Ironworkers Apprenticeship and Training Fund, Washington, DC. The Fund periodically received Federal program grants, including money from

Superfund, to establish or undertake certain skills and safety training. To date, the Fund has received \$1.2 million from EPA.

The director of the Fund, Raymond J. Robertson, previously pled guilty on March 28, 2002, to a criminal information charging him with one count of conspiracy, one count of theft, and six counts of embezzlement from the organization. That information charged Robertson with conspiring to conceal from the other trustees of the fund and contributing union members the nature and amount of thefts by Robertson and his daughter, Kerry J. Tresselt, from approximately April 1998 until January 1999. The information further charged Robertson with embezzlement for using the Fund credit card for personal purchases.

The June 3, 2002, information charged Garappolo with making statements to the Fund trustees assuring them that the Fund's financial operations and controls were in order, as well as approving the Fund's 1999 final audit report, despite having knowledge of the thefts and problems associated with Tresselt's bookkeeping.

This investigation was conducted jointly by the EPA OIG; the Department of Energy OIG; and the Department of Labor, Pension, Welfare, and Benefits Association.

Fiscal 2002 Superfund Reports

<u>Report No.</u>	<u>Description</u>	<u>Date</u>
2002-1-00004	Foster Wheeler-FY 97 RAC Close-out 68-W8-0110	12-OCT-01
2002-1-00034	Black & Veatch Special Project Corp. -FY 97 RAC 68-W5-0004	29-OCT-01
2002-1-00011	Tetra Tech NUS-CAS 420	15-OCT-01
2002-1-00023	American Management Systems-CACS 68-W9-0038	24-OCT-01
2002-1-00019	American Management Systems-CACS 68-W9-0039	18-OCT-01
2002-1-00021	Lockheed Martin Services, Inc. -FY 92 Incurred Cost	23-OCT-01
2002-1-00017	Black & Veatch Special Projects Corp. -FY 98 Incurred Cost	17-OCT-01
2002-S-00001	Review of Parker Landfill Response Claim II	31-OCT-01
2002-1-00026	CH2M Hill Inc. -FY 97 Incurred Cost	25-OCT-01
2002-1-00025	Washington Group Intl (Morrison Knudsen) -FY 99 RAC 68-W7-0039	25-OCT-01
2002-1-00020	Washington Group Intl (Morrison Knudsen) -FY 99 ARCS 68-W9-0025	22-OCT-01
2002-M-00002	CLOSED - Contracts 8a KC	16-NOV-01
2002-1-00042	Tapan AM Associates, Inc. -FY 97 RAC Closeout-68-W5-0004	08-NOV-01
2002-4-00005	Tetra Tech NUS-Floorcheck	05-NOV-01
2002-1-00040	IT Group-Delivery Order CAC- #DACA45-97-D-0012	05-NOV-01
2002-2-00001	Superfund Cooperative Agreements-- Utah	06-NOV-01
2002-P-00003	Mega: Environmental Indicators	27-DEC-01
2002-M-00006	Buena Vista/Klau Mine	14-JAN-02
2002-1-00065	Tetra Tech EMI-Revised Disclosure Statement	25-JAN-02
2002-1-00072	CMC Inc. -FY 98 Incurred Cost	30-JAN-02
2002-1-00058	CH2M Hill Inc. - FY 99 Incurred Cost	16-JAN-02
2002-1-00064	Bionetics Corporation-FY 99 Incurred Cost	24-JAN-02
2002-S-00003	Ecology & Environment - 2001 Floorcheck	26-FEB-02
2002-1-00079	TAMS Consultants Inc. -FY 98 Incurred Cost	15-FEB-02
2002-B-00002	Brownfields' Effects on Community Redevelopment	17-APR-02
2002-1-00111	Black & Veatch SPC-1998 ARCS Annual Closeout 68-W8-0064	12-APR-02
2002-2-00014	CH2M Hill Inc. -FY 98 & 99 RAC 68-W9-8225	15-APR-02
2002-1-00106	Gannett Fleming Inc. -Labor Cost Charging & Allocation Review	09-APR-02
2002-2-00013	IT Group-DACA45-97-D-0012 #	15-APR-02
2002-1-00103	SAIC-CACS 68-W2-0026	01-APR-02
2002-1-00113	Earth Tech Remediation Service-FY 98 Incurred Cost	12-APR-02
2002-M-00016	Brownfields' Effects on Community Redevelopment (OPE HQ)	24-MAY-02
2002-M-00018	EQMI 2002 Accounting System Review	30-MAY-02
2002-1-00124	CH2M Hill Inc. -FY 01 CAS 420	19-JUN-02
2002-1-00129	Roy F. WESTON-FY 96 ARCS 68-W9-0018	19-JUN-02
2002-1-00128	Roy F. WESTON-FY 97 ARCS Closeout 68-W9-0022	19-JUN-02
2002-1-00125	CH2M Hill Inc. -FY 01 CAS 408	19-JUN-02
2002-1-00121	SAIC-CACS 68-W9-0011	19-JUN-02
2002-M-00030	Environmental Chemical Corporation	01-AUG-02
2002-1-00145	Versar, Inc. -CACS 68-01-7053	26-AUG-02
2002-1-00151	Roy F. Weston-FY 97& 98 RAC 68-W7-0026	16-AUG-02
2002-1-00153	ABT Associates Inc. -CAS 404	24-AUG-02
2002-1-00158	CET Environmental Services Inc. -FY 99 Incurred Cost	29-AUG-02
2002-1-00137	Gunther F. Craun & Associates-Proposal PR-NC-01-12372	16-AUG-02

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<u>Report No.</u>	<u>Description</u>	<u>Date</u>
2002-1-00184	Superfund Cooperative Agreement Washington, DC	26-SEP-02
2002-1-00183	Black & Veatch Special Projects Corp. -FY 99 Incurred Cost	23-SEP-02
2002-1-00163	CET Environmental Services Inc. -FY 98 Incurred Cost	11-SEP-02
2002-1-00190	Ecology & Environment-FY 00 Incurred Cost	30-SEP-02
2002-1-00189	Ecology & Environment-FY 99 Incurred Cost	30-SEP-02
2002-1-00167	Metcalf & Eddy Inc. -FY 99 Incurred Cost	13-SEP-02
2002-1-00166	URS Corporation-FY 98 Incurred Cost	13-SEP-02
2002-4-00010	CH2M Hill Inc. -FY 01 CAS 412	13-SEP-02
2002-1-00174	CH2M Hill Inc. -FY 01 CAS 416	18-SEP-02
2002-1-00181	Tetra Tech NUS, Inc. -FY 99 & 00 RAC 68-W6-0045	23-SEP-02
2002-P-00016	CLOSED: Quality of CERCLIS Data	30-SEP-02
2002-P-00013	Region 4/DOE Federal Facility Cleanups	26-SEP-02
2002-P-00014	Region 4/DOE Federal Facility Cleanups	26-SEP-02
2002-M-00042	Environmental Chemical Corporation	24-SEP-02
2002-M-00043	Environmental Chemical Corporation	24-SEP-02
2002-M-00044	Environmental Chemical Corporation	24-SEP-02
2002-M-00045	Environmental Chemical Corporation	24-SEP-02
2002-M-00046	Environmental Chemical Corporation	24-SEP-02
2002-M-00047	Environmental Chemical Corporation	24-SEP-02
2002-M-00048	Environmental Chemical Corporation	24-SEP-02
2002-M-00049	Environmental Chemical Corporation	24-SEP-02
2002-M-00008	Environmental Chemical Corporation	24-SEP-02
2002-M-00035	Environmental Chemical Corporation	24-SEP-02
2002-M-00036	Environmental Chemical Corporation	24-SEP-02
2002-M-00037	Environmental Chemical Corporation	24-SEP-02
2002-M-00038	Environmental Chemical Corporation	24-SEP-02
2002-M-00039	Environmental Chemical Corporation	24-SEP-02
2002-M-00040	Environmental Chemical Corporation	24-SEP-02
2002-M-00041	Environmental Chemical Corporation	24-SEP-02

Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CFR	Code of Federal Regulations
DOE	Department of Energy
EI	Environmental Indicator
EPA	Environmental Protection Agency
FFMIA	Federal Financial Management Improvement Act
ITS	Intertek Testing Services Environmental Laboratory
NCP	National Oil and Hazardous Substances Contingency Plan
NPL	National Priorities List
OCFO	Office of the Chief Financial Officer
OI	Office of Investigations
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSWER	Office of Solid Waste and Emergency Response
PDD	Preauthorized Decision Document
PRP	Potentially Responsible Party
QA/QC	Quality Assurance/Quality Control
RCRA	Resource Conservation and Recovery Act
SARA	Superfund Amendments and Reauthorization Act of 1986