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Annual Superfund Report to the Congress for Fiscal 2001

ABBREVIATIONS

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended
EPA	Environmental Protection Agency
IC	Institutional Control
ITS	Intertek Testing Services
NCP	National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300
NPL	National Priorities List
OI	Office of Investigations (EPA OIG)
OIG	Office of the Inspector General
PDD	Preauthorized Decision Document
PRP	Potentially Responsible Party
RAC	Remedial Action Contract
RPM	Remedial Project Manager
SARA	Superfund Amendments and Reauthorization Act of 1986

ANNUAL SUPERFUND REPORT TO THE CONGRESS FOR FISCAL 2001

April 2002

Required by
Section 111(k) of the
Comprehensive Environmental Response, Compensation,
and Liability Act of 1980 (CERCLA),
as amended by the Superfund Amendments and
Reauthorization Act of 1986 (SARA)

**OFFICE OF THE INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY**

FOREWORD

This report covers fiscal 2001 activities of the Environmental Protection Agency (EPA) Office of the Inspector General (OIG), and is our 15th Annual Superfund Report to the Congress. The Superfund Amendments and Reauthorization Act of 1986 (SARA) requires the OIG to audit the Superfund program annually and to report to Congress annually on these audits.

In addition to our traditional mandated and self-initiated work, we also take a proactive role to help EPA prevent future problems and perform work requested by Agency management. During fiscal 2001, we assisted EPA management in a number of ways. At the request of two Assistant Administrators and one Regional Administrator, we reviewed actions EPA took to address asbestos exposure to citizens in Libby, Montana, and barriers EPA faced and continues to face in addressing this issue. Although EPA attempted in the 1970s and 1980s to address contaminant asbestos exposure like that in Libby, Montana, those attempts did not result in regulations or other controls that might have protected the citizens of Libby. Once the Libby problem was publicized in the media, EPA aggressively addressed the problem through the Superfund program. Fragmented authority and jurisdiction, technological barriers, funding constraints, and funding priorities all contributed to the failure to sufficiently address asbestos-contaminated vermiculite when the problem first came to EPA's attention in the 1970s.

We completed a joint review with two other Agency offices on the management of Superfund collections and receivables. This review identified good practices, as well as areas for improvement, for both EPA regions and Headquarters. The joint team also worked with the Department of Justice, which has collection responsibilities, to reconcile EPA and Justice records and improve coordination between the two agencies.

We assisted the Agency by advising Agency workgroups and bringing to management attention areas for improvement arising out of our other work. Through participation in Superfund Design/Construction Workgroups, we have helped the Agency improve its use of several mechanisms to accomplish the design and construction phases of cleanups. Through workgroup participation and other efforts, we have helped the Agency detect and deter improper practices in analytical

laboratories, and improve the quality of analytical data used to characterize Superfund sites. By alerting EPA to ways the wording of the Superfund *Information Request Pertaining to Financial Disclosure Package* required under Section 104(e) of CERCLA made it difficult to prosecute false statements' cases, we sparked improvements in the *Package* addressing its deficiencies.

We again were able to issue an unqualified opinion on EPA's financial statements, including those of the Hazardous Substance Superfund, for fiscal 2001. The Agency continues to correct longstanding problems, but we found some internal controls still needed to be strengthened. We are working to resolve with the Agency its disagreement with our opinion that it is not complying with the managerial cost accounting standard.

We reviewed an allegation that an interim remedy selected for the Petoskey Municipal Well Field site in Michigan was not needed and wasted Superfund resources. We concluded that the remedy was unnecessary. We also found that Region 5 and the State incorrectly computed their respective cost shares, and the Region is seeking recovery of its overpayment of \$123,800 to the State.

We also reviewed an allegation that Region 3 mismanaged the cleanup of the Tranguich Gasoline site in Hazleton, Pennsylvania. We found that EPA took timely and effective action to address hazards in residents' homes. However, we noted problems in EPA's communications with residents and the State, which may have resulted in EPA overcompensating by taking extra actions and incurring unnecessary costs. The Region is taking steps to prevent similar problems in the future, which will improve their response to both Superfund and Oil Pollution Act sites.

Our review of the use of institutional controls at sites in Region 2 found they were effective in all cases where they were implemented. However, there was still room for improvements. In response to our review, the Region will be reviewing sites in the interim between the statutorily required five-year reviews and will provide additional training to staff.

We received a Congressional request to determine if frequent turnovers in remedial project

managers responsible for the Abex site in Virginia had negatively impacted cleanup efforts. We concluded that it had not. However, we did recommend that Region 3 improve its handling of site transfers and revise its form used to request site files. The Region agreed to make these improvements.

We reviewed EPA's pilot projects to enhance State and tribal roles in Superfund. Although EPA considered these pilots successful, we found they lacked measurable goals for the projects and did not fully track costs. In response to our findings, EPA agreed to take corrective actions.

Our Superfund investigative efforts continued to produce convictions for fraud and other improper actions of EPA contractors. In one case, former employees of a major environmental laboratory pled guilty in a false claims case stemming from submission of a data package reflecting the false analysis of an environmental sample. The

laboratory later pled guilty to conspiracy to commit mail fraud and agreed to pay a \$9 million fine.

The Administration proposed in its fiscal 1998 budget to eliminate the requirement to issue this report, along with the specific annual audits the report is required to summarize. This report is largely duplicative of our semiannual reports. Elimination of the specific audit requirements, outlined in the *Purpose* section of this report (page 1), would allow us to focus our audit efforts each year on those areas where they can be most productive. We encourage the Congress to take this action.

We will continue to help the Agency implement Superfund more effectively and efficiently through program evaluations, audits, investigations, fraud prevention, and cooperative efforts with EPA management.

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>

PURPOSE

We provide this report pursuant to section 111(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Public Law 96-510, as amended. The Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99-499, amended that section of CERCLA to add several annual requirements for the Inspector General of each Federal agency carrying out CERCLA authorities. These requirements include four audit areas and an annual report to Congress about the required audit work. This report covers fiscal 2001 OIG Superfund activities. We discuss the required four audit areas below.

This report summarizes our work in the mandated audit areas. We also provide a broader picture of our Superfund efforts by summarizing other significant Superfund audit work, assistance to EPA management, and Superfund investigative work.

Trust Fund

CERCLA requires ". . . an annual audit of all payments, obligations, reimbursements, or other uses of the Fund in the prior fiscal year. . . ." We now meet this requirement through the financial statement audit required by the Government Management Reform Act.

Claims

CERCLA requires an annual audit to assure ". . . that claims are being appropriately and expeditiously considered" Since SARA did not include natural resource damage claims as allowable Fund expenditures, the only claims provided in CERCLA, as amended, are response claims.

Cooperative Agreements

CERCLA requires audits ". . . of a sample of agreements with States (in accordance with the provisions of the Single Audit Act) carrying out response actions under this title" We perform financial and compliance audits of cooperative agreements with States and political subdivisions. Some of our audits also review program performance. While we did audit work under this requirement in fiscal 2001, we did not issue any final reports on it during the fiscal year.

Remedial Investigations/Feasibility Studies

CERCLA requires our ". . . examination of remedial investigations and feasibility studies prepared for remedial actions" We discuss our approach to this requirement in a chapter of this report.

BACKGROUND

CERCLA, enacted on December 11, 1980, established the "Superfund" program. The purpose of the Superfund program is to protect public health and the environment from the release, or threat of release, of hazardous substances from abandoned hazardous waste sites and other sources where other Federal laws do not require response. CERCLA established a Hazardous Substance Response Trust Fund to provide funding for responses ranging from control of emergencies to permanent remedies at uncontrolled sites. CERCLA authorized a \$1.6 billion program financed by a five-year environmental tax on industry and some general revenues. CERCLA requires EPA to seek response, or payment for response, from those responsible for the problem, including property owners, generators, and transporters.

SARA, enacted October 17, 1986, revised and expanded CERCLA. SARA reinstated the environmental tax and expanded the taxing mechanism available for a five-year period. It authorized an \$8.5 billion program for the 1987-1991 period. It renamed the Trust Fund the Hazardous Substance Superfund. The Budget Reconciliation Act of 1990 reauthorized the program for three additional years and extended the taxing mechanism for four additional years. Congress has continued to fund Superfund after expiration of the authorization and the taxing mechanism.

The basic regulatory blueprint for the Superfund program is the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300. The NCP was first published in 1968 as part of the Federal Water Pollution Control Plan, and EPA has substantially revised it three times to meet CERCLA requirements. The NCP lays out two broad categories of response: removals and remedial response. Removals are relatively short-term responses and modify an earlier program under the Clean Water Act. Remedial response is long-term planning and action to provide

permanent remedies for serious abandoned or uncontrolled hazardous waste sites.

CERCLA recognized that the Federal Government can only assume responsibility for remedial response at a limited number of sites representing the greatest public threat. Therefore, EPA must maintain a National Priorities List (NPL), updated at least annually. The NPL consists primarily of sites ranked based on a standard scoring system, which evaluates their threat to public health and the environment. In addition, CERCLA allows each State to designate its highest priority site, without regard to the ranking system.

CERCLA section 104(c)(3) does not allow EPA to fund remedial actions unless the State in which the release occurs enters into a contract or cooperative agreement with EPA to provide certain assurances, including cost sharing. At most sites, the State must pay 10 percent of the costs of remedial action. EPA may fund 100 percent of site assessment activities (preliminary assessments, site inspections), remedial planning (remedial investigations, feasibility studies, remedial designs), and removals. For facilities operated by a State or political subdivision at the time of disposal of hazardous substances, the State must pay 50 percent of all response costs, including removals and remedial planning previously conducted.

CERCLA sections 104(c)(3) and 104(d) authorize EPA to enter into cooperative agreements with States or political subdivisions to take, or to participate in, any necessary actions provided under CERCLA. A cooperative agreement serves to delineate EPA and State responsibilities for actions to be taken at the site, obtains required assurances, and commits Federal funds. EPA uses cooperative agreements to encourage State participation in the full range of Superfund activities - site assessment, remedial, removal, and enforcement.

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 participates in conferences and EPA work groups to provide input.

The OIG continued such efforts in fiscal 2001 in assistance to EPA management both in work specifically focused on Superfund and in crosscutting work affecting Superfund. We issued a report on a review of asbestos contamination in Libby, Montana, performed at the request of two EPA Assistant Administrators and one Regional Administrator. Jointly with other EPA offices, we issued four reports on reviews of the Superfund accounts receivable process. We summarize below these reports and some of our other Superfund-related activities assisting management.

EPA Must Address Barriers to Prevent Future Human Health Tragedies

Although EPA attempted in the 1970s and 1980s to address contaminant asbestos exposure like that in Libby, Montana, those attempts did not result in regulations or other controls that might have protected the citizens of Libby.

In November 1999, the media ran a series of newspaper articles reporting that miners and their families in the Libby area died or became ill from exposure to asbestos-contaminated vermiculite ore mined there since the 1920s. Subsequently, the media reported that EPA officials knew about the problem but did not take action.

We identified various barriers that prevented EPA from sufficiently addressing asbestos-contaminated vermiculite when the problem first came to its attention in the 1970s. For example, authority for taking action was shared among EPA offices and other Federal agencies. This fragmented authority and jurisdiction, when combined with ineffective communication, made taking actions difficult. Limitations in science,

technology, and health effects data also impeded EPA's efforts to determine the degree of health risk at Libby. Furthermore, due to funding constraints and competing priorities, EPA emphasized other areas, such as asbestos in schools, rather than asbestos-contaminated vermiculite.

After the November 1999 newspaper articles, EPA began an aggressive Superfund cleanup at the Libby site. In addition, EPA traced, evaluated, and planned to take action on at least 16 sites throughout the country that received asbestos-contaminated vermiculite from Libby. However, at the time of our review, EPA had not taken new steps to address prevention of exposures at asbestos or asbestos-contaminated processing sources and facilities unrelated to Libby.

We recommended that EPA, in partnership with other Federal organizations and States, also assess asbestos or asbestos-contaminated ore, rock, and mineral processing sources and facilities that were similar although unrelated to Libby. We also recommended that, if EPA finds concerns with the Libby-related work and/or the assessments regarding human health and the environment, it should determine short- and long-term actions necessary to resolve the problems. Some of these actions included Superfund removals, changes in the Toxic Substances Control Act or the Clean Air Act regulations, or statutory changes.

We issued our final report (2001-S-00007) on March 31, 2001. EPA's response to our report adequately addressed our recommendations. On February 26, 2002, EPA published a Proposed Rule to list the Libby Asbestos site on the National Priorities List for Uncontrolled Hazardous Waste Sites.

OIG/Agency Team Assesses Superfund Collections and Receivables

EPA OIG joined EPA's Office of Site Remediation Enforcement and Office of Chief Financial Officer on an Agency Joint Management Review team that assessed the management of Superfund collections and receivables in EPA and the Department of Justice. EPA designated the management of Trust Fund collections and accounts receivables as a top Superfund priority. As of April 2000, EPA's

records indicated about \$527 million in outstanding accounts receivable had been delinquent for more than 120 days.

The team identified: (1) practices that would facilitate collection of accounts receivables; (2) areas where the collection and receivable management process could be improved; and (3) areas in which EPA Headquarters could provide better guidance and support. The team also worked with Justice to reconcile differences between EPA and Justice, including making recommendations to improve the collection process and efforts of both agencies.

The team issued four reports: a national report (2001-S-00002) and three regional reports (Region 1: 2001-S-00003, Region 5: 2001-S-00004, and Region 6: 2001-S-00005). The offices involved are taking corrective actions.

Superfund Design/Construction Workgroup

We served as advisors on the Agency's Phase I Superfund Design/Construction Workgroup. The Phase I workgroup's charter was to develop options, with pros and cons, for splitting the design and construction work into separate remedial design and construction contracts, retaining the current Response Action Contracts (RACs) type contracts, or some other combination. The Phase I Design/Construction workgroup developed and analyzed various procurement options to arrive at their recommended option of a menu approach to allow regions to select from among several contracts. This menu includes:

- Remedial Design Contracts,
- Remedial Action Contracts,
- Full-Service Contracts (same in scope, but smaller in size, than the current RACs),
- Site-Specific Contracts,
- Interagency Agreements, and
- Cooperative Agreements.

We continued to assist the Agency by participating in the Phase II workgroup, tasked with developing the implementation details for the

Phase I workgroup's recommendation. This includes:

- Promoting distribution of work across contract vehicles.
- Increasing participation by small and small disadvantaged businesses.
- Increasing the use of performance-based contracts and work assignments.
- Exploring the use of separate construction contracts.
- Updating OSWER Directive #924.3-08 on the assignment of work among EPA contracts, the Army Corps of Engineers, and the Bureau of Reclamation.

Improving Data Quality

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. We have 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.

Investigative Efforts Spur Superfund Financial Disclosure Package Improvements

As a result of an investigation into alleged false statements, EPA changed the wording of the Superfund *Information Request Pertaining to Financial Disclosure Package* required under Section 104(e) of CERCLA to make time frames outlined in various parts of the package consistent. Before the change, the 104(e) letter requested financial information for the past five years, while the *Financial Statement of Individuals* form that accompanied the letter requested information for only the past three years. Both the letter and form now request information for the past five years. EPA made this change in part because the conflicting time periods requested caused difficulty in prosecuting cases for false statements.

HAZARDOUS SUBSTANCE SUPERFUND

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 2001 financial statement audit relates to all findings resulting from our audit of EPA's financial statements, including those of the Hazardous Substance Superfund.

EPA Earns Unqualified Opinion on Financial Statements

EPA earned an **unqualified opinion** on its fiscal 2001 financial statements. In evaluating EPA's internal controls, we noted certain matters that we consider to be reportable conditions, but none we believe to be material weaknesses which would prevent the presentation of reliable financial statement amounts. In evaluating the Agency's internal control structure, we identified three reportable conditions in the following areas:

- Implementing Accounting for Internal Use Software Timely
- EPA's Interagency Agreement Invoice Approval Process
- Automated Application Processing Controls for the Integrated Financial Management System.

We did not identify any instances of noncompliance with laws and regulations that would result in material misstatements to the

audited financial statements. However we again noted, as we did in our fiscal 1999 and 2000 audits, that EPA did not comply with the managerial cost accounting standard. EPA also continues to experience difficulties in reconciling some of its intra governmental assets and liabilities due to some Federal entities not performing reconciliations. Without the proper confirmations from its trading partners, EPA has limited assurance that intra governmental balances are accurate.

During the audit of the fiscal 2001 financial statements, we noted substantial progress in completing corrective actions in fiscal 2002. The Agency revised its financial system security remediation plan and submitted it to OMB as part of EPA's fiscal 2003 budget submission. The agency also plans to implement an automated process for the interagency agreement invoice approval process during fiscal 2002.

In its response to our draft report, the Agency generally concurred with our recommendations and noted completion or planning of a number of corrective actions. However, the agency did not agree with the issue on substantial noncompliance with the managerial cost accounting standard. In our opinion, EPA's cost accounting system does not completely satisfy the objectives of the standard. The Deputy Chief Financial Officer, while acknowledging the desirability of continuing improvements as envisioned by the standard, continued to disagree with our conclusion that EPA did not comply with the standard. On December 12, 2001, we elevated this issue to the Administrator for resolution, as is required by Federal Financial Management Improvement Act. As of March 31, 2002, we have not received a response from the Administrator.

We issued our final report (2002-1-00082) on February 26, 2002. A final response to our report is due by May 30, 2002.

REMEDIAL ACTION DECISION MAKING

In each *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 in-depth 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 assure sound decision making.

Assessments of instances of possible misrepresentation of analytical data produced in both Agency and contractor laboratories during fiscal years 1999 and 2000 have caused us to devote even more resources to such assessments in fiscal 2001. 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 assure data of known quality to support Superfund remedial decision making 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 assure 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.

During fiscal 2001, we issued three memorandum reports concerning our reviews of response claims. Our response claim reviews are not audits, but rather follow instructions in the Agency's claims guidance for the claims adjuster.

Old Southington Landfill Site

We reviewed claimed costs of \$6,680,153.51 for work performed to clean up the Old Southington Landfill site in Southington, Connecticut. Under the PDD for the site, the claimant cleaning up the site is entitled to submit claims covering 63.09 percent of eligible costs, not to exceed a total of \$8,800,165. This was the first claim submitted, and was for costs incurred from March 5, 1998, through September 30, 2000.

In our memorandum of May 9, 2001 (2001-S-00008), we recommended that the claim be paid except for \$71,045.45 (\$44,822.57 EPA share) in ineligible and unsupported costs. We questioned

\$63,554.68 as ineligible because the costs were incurred prior to the PDD date. We also questioned \$4,440.77 as ineligible because it was for operation and maintenance costs rather than remedial action. In addition, we questioned \$3,050 as unsupported because it was in excess of the amount paid the vendor. We also expressed concern that the legal fees may be excessive and unnecessary, although we did not question them.

York Oil Site

We reviewed claimed costs of \$1,992,468 for work performed to clean up the York Oil site in Moira, New York. Under the PDD for the site, the claimant cleaning up the site is entitled to submit claims covering 16.11 percent of eligible costs, not to exceed a total of \$2,738,700. This was the first claim submitted, and was for costs incurred from March 1995 through November 1999.

In our memorandum of September 12, 2001 (2001-M-00020), we recommended payment of the requested amount of \$320,986, representing 16.11 percent of the costs claimed. We made suggestions for improvements in time and travel expense documentation for one of the claimant's contractors. In addition, we made recommendations for improvement in the documentation submitted with future claims.

Hunterstown Road Site

We reviewed claimed costs of \$259,311 for work performed to clean up the Hunterstown Road site in Adams County, Pennsylvania. Under the PDD for the site, the claimant cleaning up the site is entitled to submit claims covering 39 percent of eligible costs, not to exceed a total of \$2,670,320. This was the first claim submitted, and was for costs incurred from April 1999 through July 2000.

In our memorandum of June 12, 2001 (2001-M-00014), we recommended payment of the requested amount of \$101,131, representing 39 percent of the costs claimed.

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 2001 not summarized elsewhere in this Report.

Superfund Monies Used Inappropriately at Petoskey Site

EPA Region 5 did not select the appropriate remedy in its Interim Record of Decision to provide \$1.238 million to Michigan from the Superfund Trust Fund for the cost of installing an air stripper at the Petoskey Municipal Well Field Superfund Site. The money was used instead to help defray the cost of a new drinking water source, which could set an inappropriate precedent for other parties to seek Superfund monies to address non-Superfund issues, such as local drinking water problems.

OIG had received an allegation claiming that Region 5's selected remedy was potentially a waste of Superfund monies because an EPA response was not warranted and the process for determining the cost of the air stripper was improper. We concluded that although the remedy was unnecessary from a Superfund perspective, Region 5 approved and contributed \$1.238 million from the Superfund Trust Fund (the capital cost of the air stripper) to partially defray the City's cost of replacing the Well. Specifically:

- The air stripper remedy was unnecessary because the Administrative Record and other documents showed that drinking water contamination was within the standard and future risk of contamination above the standard was unlikely. Thus, the scientific evidence did not support Region 5's decision to fund the remedy.
- The air stripper, for which the money was sought, could not even be built because of well construction deficiencies and because the well was under the direct influence of surface water. Installing an air stripper would have violated both Federal and Michigan Safe Drinking Water Acts.

- Region 5 and Michigan used an incorrect total cost to determine their respective cost matches for an air stripper, resulting in Region 5 overpaying the State by \$123,800.

We issued our final report (2001-P-00011) on September 14, 2001. Recognizing that six years have passed since Region 5 made an affirmative decision to award \$1.238 million, we did not recommend recovery of the total award. In our view, the true benefit of this report is to serve as a "lessons learned" document for future Superfund decisions. The Region did agree with our recommendation to recover the costs associated with the \$123,800 overpayment, and has requested this sum from the State.

Although EPA Actions at Tranguch Gasoline Site Were Sufficient, Communication Needs Improvement

We determined that the remediation efforts taken by EPA at the Tranguch Gasoline Site, in Hazleton, Pennsylvania, appeared sufficient to ensure the safety of area residents, although EPA could have communicated better with those residents.

We conducted this review as a result of a hotline complaint alleging that Region 3 mismanaged the Tranguch site, where vapors from a gasoline spill stemming from corroded underground storage tanks caused a major concern for area residents. We found that EPA took timely and effective actions to address hazards in residents' homes. In particular, we noted that:

- Homes sampled were representative of the spill area.
- EPA's decisions on taking remediation were sufficient.
- A buyout of residents' homes was not warranted.

However, we found that EPA should have communicated better with residents and the Pennsylvania Department of Health. EPA's poor communication resulted in many residents not trusting EPA, and EPA may have overcompensated by taking extra actions that may not have been needed. These actions may result

in as much as \$2.8 million in unnecessary costs.

We issued the final report (2001-P-00015) on August 29, 2001. We recommended that the Region 3 Administrator, to ensure better communication with the public at future sites, provide additional training to appropriate EPA personnel on risk communication, and develop a risk communication reference guide. In response to our report, the Region provided a plan for the additional training and for preparation of the risk communication reference guide.

Although the Tranguch site was an Oil Pollution Act site, not a Superfund site, the Region's actions will have a positive impact on its Superfund operations. Responses under both laws are handled by the same staff and are implemented in largely the same manner.

Region 2's Institutional Controls Were Effective

Region 2 adequately made use of institutional controls (ICs) at Superfund sites to make sure public health and the environment were protected. ICs are non-engineering measures (usually legal controls) intended to affect human activities to prevent or reduce exposure to hazardous substances. EPA has recently emphasized these controls as an important aspect of the Superfund program.

We reviewed 14 sites and found that 8 had ICs in place, while the remaining 6 had decided on ICs but had not yet implemented them. ICs were effective in all cases where they were implemented. For example, at one site, where ICs covered land and water use restrictions, the county health department received a call that led to it preventing the use of well water for five new houses because ground water was still contaminated. At another site, an EPA Remedial Project Manager found large holes around a site cap that appeared to have been dug by dogs, and then arranged to have the holes filled and preventive measures implemented.

Despite the effectiveness of ICs, we noted some areas where improvements could be made. State and regional staff indicated that the interval between the 5-year reviews was too long. New York and New Jersey monitor their sites on annual and 2-year cycles, respectively, and we consider those time frames better. In addition, we

identified the need for additional training of regional staff on the awareness and use of ICs.

We recommended that the Region 2 Administrator have staff conduct interim reviews at least every 18 months and that additional training courses be developed. Region 2 generally concurred with our recommendations. We issued our final report (2001-M-00021) on August 29, 2001. In its response to our report, the Region indicated it would conduct interim reviews and was developing training courses. On March 21, 2002, the Region reported to us that it had selected 17 sites for the first round of interim reviews. The reviews will address ICs and will follow up on recommendations made in 5-year reviews and Preliminary Closeout Reports.

Staff Turnover Did Not Impede Cleanups, but Processes Could Be Improved

In response to a request from Senator Charles Robb of Virginia, we reviewed the frequency of Remedial Project Manager (RPM) turnover in Region 3 and its impact on the Region's cleanup efforts. The Senator was concerned that the EPA had misplaced sampling results at the Abex site for more than six years and asked us to determine whether it was caused by excessive RPM turnover and/or an inadequate filing system.

We concluded that RPM turnover did not adversely affect site cleanups. However, we found a significant variance in the amount of time spent briefing incoming RPMs. We recommended that the Region formalize site transfers by having the RPMs complete a Site Information/Checklist form, and instruct the new RPM to use the former RPM's "draft" salient issues as a source of information. The Region agreed that both of these actions will better facilitate site transfers between RPMs.

We found that Abex sampling information had been misplaced for more than six years because the RPM requesting the files inadvertently did not check the box at the bottom of the request form for oversized documents. An oversized map was stored separate from the site file. Region 3 has revised its Superfund file room request form by adding a checkbox at the top of the form for oversized documents. We believe this was an isolated incident and the revisions to the form will prevent future occurrences.

We issued our final memorandum report (2001-M-00015) on June 15, 2001. Region 3 issued a memorandum to the RPMs on September 18, 2001, with instructions to implement our recommendations.

Plan to Enhance State and Tribal Superfund Roles Needed Measurable Goals

To encourage greater state and tribal participation, EPA developed a *Plan to Enhance the Role of States and Tribes in the Superfund Program* in March 1998. EPA funded pilot projects with eight states and nine tribes, and concluded that the pilots successfully overcame barriers and helped states and tribes agree upon mutual expectations, enabling quicker cleanups of more sites.

Although EPA concluded that its pilot projects to enhance the roles of states and tribes in the Superfund program were successful, we found that EPA's plan to implement these projects did not have measurable goals and EPA did not fully track costs. EPA's lack of performance goals and measures for the pilot program limited its ability to document its success. Also, while EPA had a record of how much it provided the states and tribes for the pilot projects, it did not track other implementation and oversight costs.

We issued our final report (2001-M-00002) on November 17, 2000. In response to our report, EPA agreed to work with regions to develop a strategy to communicate needed information, develop customized plans, collect baseline information, establish appropriate measures, and track total costs.

INVESTIGATIVE ACTIVITY

The OIG Office of Investigations (OI) continues to focus its investigative resources on high cost program and administrative areas. Priority is also given to environmental programs and employees when the action under investigation has 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. Many of our investigations resulted in successful prosecutions of companies and individuals who jeopardized public health and the environment by falsifying environmental test data and reports that the Agency, local governments, and individual customers rely on to assess threats and control hazardous wastes, toxins, and other contaminants that pollute our ground water, rivers, and streams.

Major proactive investigative efforts have covered all stages of the Superfund program, with a special emphasis on contracting for removals and remediation. As a result of OI proactive efforts in prior years, we continue to initiate criminal investigations across the nation. The OI is continuing its initiative to detect and investigate laboratory fraud within the environmental community, involving commercial, contractual, as well as Agency, laboratories. As a result of increased referrals and investigative results in this area, the Inspector General submitted an open letter to the environmental analytical laboratory community to draw their attention to issues of misconduct or unethical practices in analytical laboratories related to inappropriate or fraudulent manipulation of laboratory data.

During fiscal year 2001, our Superfund investigative efforts resulted in five convictions, two civil filings, and six administrative actions. Over the past six fiscal years, monetary fines, restitution, and recoveries resulting from Superfund investigations totaled more than \$75 million. We expect to see an increased number of significant actions as our investigative

emphasis on major Agency contracting and laboratory fraud continues.

The following synopsis is an example of Superfund investigative activity with results in fiscal 2001.

Lab Fined \$9 Million for False Claims

Five former employees of Intertek Testing Services Environmental Laboratories, Inc. (ITS) pled guilty on September 26, 2001, to making false demands against the United States. The defendants admitted in their guilty plea agreements that they knowingly caused a false claim to be submitted against the United States by submitting a data package reflecting the false analysis of an environmental sample.

The laboratory later pled guilty to conspiracy to commit mail fraud and agreed to pay a \$9 million fine. Between January 1994 and December 1997, ITS, a full service environmental testing laboratory, generated \$35.7 million in gross billings. It performed environmental sample analysis on more than 59,000 separate environmental projects involving more than 250,000 samples of air, soil, liquids, pesticides, explosives, and nerve/chemical agents. These analyses were conducted for determining, among other things, the presence of known or suspected human cancer-causing contaminants. ITS was formerly known as NDRC Laboratories, Inc., and Inchcape Testing Services Environmental Laboratories, Inc.

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.

FISCAL 2001 SUPERFUND REPORTS

Program Evaluation, Performance Audit, and Special Review Reports

Report No.	Description	Date
2001-S-00002	Accounts Receivable Collections - National Report	1/ 2/01
2001-S-00003	Accounts Receivable Collections - Region 1	1/19/01
2001-S-00004	Accounts Receivable Collections - Region 5	1/19/01
2001-S-00005	Accounts Receivable Collections - Region 6	1/19/01
2001-M-00002	Enhanced State and Tribal Roles	11/17/00
2001-M-00021	Institutional Controls - Region 2	8/29/01
2001-P-00011	Interagency Agreements	6/22/01
2001-S-00007	Libby, Montana, Asbestos Contamination	3/31/01
2001-P-00017	Petoskey, Michigan, Manufacturing Co. Remedial Decisions	9/14/01
2001-S-00010	Potentially Responsible Party Search Program	8/24/01
2001-M-00015	Site Personnel Turnover - Region 3	6/15/01
2001-P-00015	Tranguch Gasoline Site, Pennsylvania	8/29/01

Response Claims Reports

2001-M-00014	Hunterstown Road, Adams County, Pennsylvania	6/12/01
2001-S-00008	Old Southington Landfill, Southington, Connecticut	5/ 9/01
2001-M-00020	York Oil, Moira, New York	9/12/01

Contract Reports

Initial Pricing Reviews (Preward Audits)

2001-2-00016	Computer Sciences Corp., MD - PR-HQ-00-10323	2/26/01
2001-1-00013	DLZ National Inc. of Ohio - PR-HQ-00-10536	10/26/00
2001-1-00014	DLZ National Inc. of Ohio - PR-HQ-00-10536 - Accounting System	10/26/00
2001-1-00138	FEV Engine Technology, MI - PR-CI-01-11610	5/16/01
2001-2-00023	International Technology (IT) Corp., IL - DACW45-94-D-0005	8/20/01
2001-2-00009	Mantech Environmental Technology, VA - PR-HQ-00-10661	11/22/00
2001-2-00025	Milestone Associates, Inc., MD - PR-HQ-01-12880	9/17/01
2001-2-00020	Ricardo, Inc., MI - PR-CI-01-11610	5/21/01

Incurred Costs

2001-1-00112	ABB Environmental Services, MA - Fiscal 1997 & 1998	3/13/01
2001-1-00036	Arthur D. Little, Inc., MA - Fiscal 1997	11/ 9/00
2001-1-00188	Bechtel Group, Inc., CA - Fiscal 1999	8/24/01
2001-1-00041	Camp, Dresser & McKee, MA - Fiscal 1998	11/16/00
2001-1-00187	CET Environmental Services, Inc., CO - Fiscal 1998	8/24/01
2001-1-00045	CH2M Hill, Inc., CO - Fiscal 1996	11/22/00
2001-1-00067	CH2M Hill, Inc., CO - Fiscal 1997	1/ 4/01
2001-1-00046	Dyncorp, Inc., VA - Fiscal 1998	11/28/00
2001-1-00091	Earth Technology Remediation Service, MI - Fiscal 1996	2/ 5/01
2001-1-00190	Earth Technology Remediation Service, MI - Fiscal 1997	8/28/01
2001-1-00192	Earth Technology Remediation Service, MI - Fiscal 1998	8/29/01

FISCAL 2001 SUPERFUND REPORTS

Contract Reports (continued)

<u>Report No.</u>	<u>Auditee/Description</u>	<u>Date</u>
<i>Incurred Costs (continued)</i>		
2001-1-00074	Ecology & Environment, Inc., NY - Fiscal 1994	1/16/01
2001-1-00177	Ecology & Environment, Inc., NY - Fiscal 1995	7/20/01
2001-1-00195	Ecology & Environment, Inc., NY - Fiscal 1996	9/18/01
2001-1-00201	Ecology & Environment, Inc., NY - Fiscal 1997	9/26/01
2001-1-00205	Ecology & Environment, Inc., NY - Fiscal 1998	8/28/01
2001-1-00064	Enviro-Management & Research, Inc., MD - Fiscal 1999	12/18/00
2001-1-00156	Environmental Quality Management, Inc., OH - 1999	6/25/01
2001-1-00062	Fluor Daniel, Inc., TX - Fiscal 1994 ARCS Closeout	12/11/00
2001-1-00141	Foster Wheeler Environmental Corp., NJ - Fiscal 1998	5/23/01
2001-1-00133	Foster Wheeler Environmental Corp., NJ - Fiscal 1999	4/19/01
2001-1-00181	Gannett Fleming Environmental Engineers, Inc., PA - Fiscal 1999	8/15/01
2001-1-00113	Griffin Services, Inc., GA - Fiscal 1998	3/16/01
2001-1-00031	Guardian Environmental Services Inc., DE - Fiscal 1992-93	11/30/00
2001-1-00004	Jacobs Engineering Group, CA - Fiscal 1994	10/ 6/00
2001-1-00071	Jacobs Engineering Group, CA - Fiscal 1995	1/10/01
2001-1-00072	Jacobs Engineering Group, CA - Fiscal 1995	1/10/01
2001-1-00199	Malcolm Pirnie, Inc., NY - Fiscal 1994	9/25/01
2001-1-00200	Malcolm Pirnie, Inc., NY - Fiscal 1995	9/25/01
2001-1-00140	Metcalf & Eddy, Inc., MA - Fiscal 1998	5/22/01
2001-1-00042	Sverdrup Corp., MO - Fiscal 1999	11/16/00
2001-1-00102	TN & Associates, WI - Fiscal 1999	2/15/01
2001-1-00125	Transcontinental Enterprises, Inc., NC - Fiscal 1998	4/ 4/01
2001-1-00124	Westinghouse Remediation Service, Inc., FL - Fiscal 1997	7/16/01
<i>Closeout (Final) Audits</i>		
2001-1-00089	Black & Veatch Special Projects Corp., KS - Fiscal 1996 ARCS	2/ 2/01
2001-1-00105	Black & Veatch Special Projects Corp., PA - Fiscal 1996 ARCS	2/26/01
2001-1-00011	CDM Federal Programs Corp., VA - Fiscal 1996 ARCS	10/24/00
2001-1-00044	Halliburton NUS Corp., MD - 68-01-6699	11/22/00
2001-2-00019	Malcolm Pirnie, Inc., NY	5/10/01
2001-1-00056	OHM Remediation Services, OH	12/ 6/00
2001-1-00008	Tetra Tech Environmental Management, Inc., IL - 68-W0-0034	10/12/00
<i>Internal Controls</i>		
2001-M-00027	Malcolm Pirnie, Inc., NY - 2001 Floorcheck	9/28/01
2001-1-00135	Midwest Research Institute, DC - MAAR 6	5/16/01
2001-1-00137	Midwest Research Institute, DC - MAAR 13	5/16/01
<i>Cost Accounting Standards</i>		
2001-1-00106	Tetra Tech, Inc., CA - Cost Accounting Standard 403	2/26/01

FISCAL 2001 SUPERFUND REPORTS

Contract Reports (continued)

Report No.	Auditee/Description	Date
Other Contract Audits		
2001-1-00019	ABB Environmental Services, MA - 68-03-3452	10/27/00
2001-4-00004	ABT Associates, Inc., DC - Financial Capability	12/15/00
2001-1-00038	Battelle Memorial Institute, OH - Revised Disclosure Statement	11/16/00
2001-1-00009	Black & Veatch Special Projects Corp., MO - Fiscal 1996 RAC	10/19/00
2001-1-00007	Black & Veatch Special Projects Corp., GA - Fiscal 1997 ARCS	10/11/00
2001-1-00110	Black & Veatch Special Projects Corp., KS - Fiscal 1997-98 ARCS	3/ 5/01
2001-1-00010	CDM Federal Programs Corp., VA - Fiscal 1998 ARCS	10/24/00
2001-1-00051	CDM Federal Programs Corp., VA - Fiscal 1998 RAC	12/ 5/00
2001-1-00034	CDM Federal Programs Corp., VA - 68-W9-0002	11/ 8/00
2001-4-00020	CET Environmental Services, Inc., DC - Financial Review/Revision	5/18/01
2001-2-00026	CET Environmental Services, Inc., CO - Review of Equipment Rates	9/17/01
2001-2-00001	CET Environmental Services, Inc., CO - Review of Invoices	10/12/00
2001-2-00002	CET Environmental Services, Inc., CO - Review of Invoices	10/12/00
2001-2-00003	CET Environmental Services, Inc., CO - Review of Invoices	10/12/00
2001-2-00004	CET Environmental Services, Inc., CO - Review of Invoices	10/12/00
2001-1-00012	CET Environmental Services, Inc., CO - Review of Invoices	10/25/00
2001-2-00005	CET Environmental Services, Inc., CO - Review of Invoices	10/25/00
2001-2-00006	CET Environmental Services, Inc., CO - Review of Invoices	10/25/00
2001-2-00008	CET Environmental Services, Inc., CO - Review of Invoices	10/25/00
2001-2-00012	CET Environmental Services, Inc., CO - Review of Invoices	2/ 1/01
2001-1-00189	CET Environmental Services, Inc., CO - Review of Invoices	8/27/01
2001-1-00006	CH2M Hill Companies, Ltd., CO - Cost Accounting Standard 416	10/11/00
2001-1-00090	CH2M Hill, Inc., CO - Accounting System Follow-up	2/ 2/01
2001-1-00066	CH2M Hill, Inc., CO - Fiscal 1997 Home Office Allocation	1/ 4/01
2001-1-00083	CH2M Hill, Inc., CO - Fiscal 2000 Forward Pricing Rates	1/25/01
2001-1-00159	Computer Sciences Corp., VA - 68-01-7365	1/26/01
2001-1-00048	Development Planning & Research Assoc., Inc., KS - MAAR 6	11/28/00
2001-1-00193	Eastern Research Group, MA - EDP General Internal Controls	9/ 7/01
2001-1-00134	Environmental Management Support, MD - 68-W6-0014	4/19/01
2001-1-00003	Environmental Technology, Inc. (Earth Tech), VA	10/ 5/00
2001-1-00060	Environmental Technology, Inc. (Earth Tech), VA - Voucher Review	12/ 8/00
2001-4-00019	FEV Engine Technology, MI - Local Travel Cost	5/17/01
2001-1-00154	Foster Wheeler Environmental Corp., NJ - Fiscal 1999 RAC	6/13/01
2001-1-00179	Gannett Fleming, Inc., MD - Accounting System	8/14/01
2001-4-00009	IT Group, Inc., PA - Fiscal 2001 QATS Provisional Rates	3/30/01
2001-4-00011	IT Group, Inc., PA - Indirect Bidding & Billing Fiscal 2001-03	4/11/01
2001-2-00011	Jacobs Engineering Group, KS - Fiscal 1998 RAC 68-W5-0014	12/21/00
2001-1-00157	OHM Remediation Services, KS - Delivery Order Review	6/25/01
2001-1-00033	OHM Remediation Services, PA - Interagency Agreements	11/ 7/00
2001-1-00043	Roy F. Weston, Inc., NJ - Fiscal 1996 ARCS 68-W9-0022	11/16/00
2001-1-00057	Roy F. Weston, Inc., PA - Fiscal 1996 ARCS 68-W8-0089	12/ 8/00
2001-1-00150	SciComm, Inc., MD - 68-W3-0009	6/11/01
2001-1-00167	Tetra Tech/Black & Veatch Joint Venture, CA - Fiscal 1997-98 RAC	7/10/01
2001-1-00058	Tetra Tech/NUS Joint Venture, MD - Fiscal 1996-98 RAC	12/ 8/00

