



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

*EPA as a High Performing Organization*

## **Follow-Up Report: EPA Has Completed Actions to Improve Implementation of the Rulemaking Process**

Report No. 16-P-0211

June 23, 2016



## Report Contributors:

Dwayne Crawford  
Eric Lewis  
Michael Wilson

## Abbreviations

ADP            Action Development Process  
EPA            U.S. Environmental Protection Agency  
OIG            Office of Inspector General

**Cover photo:**    Photograph of hand stamps labeled rules and regulations, which symbolizes the procedural process of creating rules and regulations. (EPA photo)

**Are you aware of fraud, waste or abuse in an EPA program?**

**EPA Inspector General Hotline**  
1200 Pennsylvania Avenue, NW (2431T)  
Washington, DC 20460  
(888) 546-8740  
(202) 566-2599 (fax)  
[OIG\\_Hotline@epa.gov](mailto:OIG_Hotline@epa.gov)

Learn more about our [OIG Hotline](#).

### **EPA Office of Inspector General**

1200 Pennsylvania Avenue, NW (2410T)  
Washington, DC 20460  
(202) 566-2391  
[www.epa.gov/oig](http://www.epa.gov/oig)

Subscribe to our [Email Updates](#)  
Follow us on Twitter [@EPAoig](#)  
Send us your [Project Suggestions](#)



# At a Glance

## Why We Did This Review

In this follow-up review, we assessed the U.S. Environmental Protection Agency's (EPA's) actions to address Recommendations 1, 2 and 3 in Office of Inspector General (OIG) Report No. [13-P-0167](#), *Efficiency of EPA's Rule Development Process Can Be Better Measured Through Improved Management and Information*, issued February 28, 2013. The EPA Associate Administrator for the Office of Policy was the action official responsible for ensuring completion of corrective actions.

According to the EPA, it is one of the most active regulatory agencies in the federal government. The EPA uses the Action Development Process to prepare hundreds of regulatory actions a year. The EPA established the process to ensure the quality of its regulatory actions. According to the EPA, its environmental success and credibility is directly linked to the quality of this work.

**This report addresses the following EPA goal or cross-agency strategy:**

- *Embracing EPA as a high-performing organization.*

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

Listing of [OIG reports](#).

## ***Follow-Up Report: EPA Has Completed Actions to Improve Implementation of the Rulemaking Process***

### What We Found

The OIG's 2013 report addressed key aspects of Action Development Process implementation efficiency in EPA program offices. The 2013 report made three recommendations related to the Action Development Process, also known as "ADP." The EPA's system to track actions for this process is called ADP TRACKER. The recommendations were that the EPA:

- 1) Establish guidance that clarifies roles and responsibilities in ADP implementation, including data entry, record keeping, and the status of action development.
- 2) Ensure that ADP TRACKER has established clear roles, responsibilities, and requirements for the program offices to upload development documents; and that entries are updated in a timely manner, are monitored for data quality, and all features available are used to evaluate the efficiency of the rule development process.
- 3) Develop and implement a method to track resource use in key rulemaking activities.

We found that the EPA completed the corrective actions agreed to with the OIG. The Office of Policy developed and issued user guidance for the ADP TRACKER database. This ADP TRACKER user guidance should improve the clarity and implementation of the EPA's Action Development Process by EPA program offices. Consistent use of the ADP TRACKER database will assist EPA program offices in following and implementing the EPA's Action Development Process during the development and issuance of EPA rules.

**The EPA's completion of Inspector General recommendations should improve the clarity and implementation of the EPA's regulatory actions.**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

June 23, 2016

**MEMORANDUM**

**SUBJECT:** Follow-Up Report: EPA Has Completed Actions to Improve Implementation of the Rulemaking Process  
Report No. 16-P-0211

**FROM:** Arthur A. Elkins Jr.

A handwritten signature in black ink that reads "Arthur A. Elkins Jr." with a stylized flourish at the end.

**TO:** Laura Vaught, Associate Administrator  
Office of Policy

This is our report on the subject review conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this review was OPE-FY16-0012. EPA officials reviewed our draft findings and had no comments.

Because this report contains no recommendations, you are not required to respond to this report. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal, along with corresponding justification.

We will post this report to our website at [www.epa.gov/oig](http://www.epa.gov/oig).

# *Table of Contents*

---

<b>Purpose</b> .....	1
<b>Background</b> .....	1
<b>Responsible Office</b> .....	2
<b>Scope and Methodology</b> .....	2
<b>Results of Review</b> .....	3
EPA Action for Recommendation 1.....	3
EPA Action for Recommendation 2.....	3
EPA Action for Recommendation 3.....	3
<b>Conclusion</b> .....	4

## **Appendix**

<b>A Distribution</b> .....	5
-----------------------------	---

## Purpose

We reviewed corrective actions taken by the U.S. Environmental Protection Agency (EPA) to address the three recommendations in Office of Inspector General (OIG) Report No. [13-P-0167](#), *Efficiency of EPA's Rule Development Process Can Be Better Measured Through Improved Management and Information*, issued February 28, 2013. The review involved looking at the Action Development Process (ADP), used to ensure the quality of the agency's regulatory actions, and ADP TRACKER used to track process actions. The Associate Administrator for the Office of Policy was the action official responsible for ensuring completion of corrective actions in response to our recommendations. The three recommendations from the 2013 OIG report were that the EPA:

**Recommendation 1** - Establish guidance that clarifies roles and responsibilities in ADP implementation, including data entry, record keeping, and the status of action development.

**Recommendation 2** - Ensure that ADP TRACKER has established clear roles, responsibilities, and requirements for the program offices to upload development documents; and that entries are updated in a timely manner, are monitored for data quality, and all features available are used to evaluate the efficiency of the rule development process.

**Recommendation 3** - Develop and implement a method to track resource use in key rulemaking activities.

## Background

EPA regulations cover a range of environmental and public health protection issues, including setting standards for clean water, establishing requirements for proper handling and reduction of toxic wastes, and controlling air pollution. According to the EPA, it is one of the most active regulatory agencies in the federal government. Each year, the agency develops hundreds of rules, which address highly technical, scientific and complex environmental problems.

According to the agency, much of its environmental success and organizational credibility is directly linked to the quality of its work under the ADP. The ADP serves as a framework to ensure that rules are developed using quality information; and that all scientific, economic and policy issues are addressed during the appropriate rule development stages.

The EPA's official management system to track all actions is called ADP TRACKER. The EPA uses the ADP TRACKER database to track and monitor the development of regulations, guidance documents, general permits and other action types that follow the ADP.

The purpose of the OIG's 2013 review was to evaluate whether the EPA's ADP ensures the timeliest, most efficient and most effective method for rule development. The prior review focused on key aspects of efficiency with which EPA program offices implement the ADP guidance. The 2013 report found that the EPA's database for creating and tracking rules<sup>1</sup> was sparsely populated. The OIG found program offices were not adequately using the agency's database due to a lack of standardized procedures from the Office of Policy establishing responsibility for uploading documents to the databases used to manage the ADP process.

## **Responsible Office**

The EPA's Office of Policy, through its Office of Regulatory Policy and Management, manages the regulatory development process for the agency by providing support and guidance to the EPA's program and regional offices as they develop regulations. The EPA's Office of Policy manages the ADP and infrastructure (i.e., ADP TRACKER database), and also serves as liaison to other agencies involved in rule development, such as the U.S. Office of Management and Budget.

## **Scope and Methodology**

We performed our review from February 2016 through June 2016. We verified the information in the EPA's Management Audit Tracking System to determine whether the EPA completed corrective actions for OIG Recommendations 1, 2 and 3 in OIG Report No. 13-P-0167. We did not independently verify whether the corrective actions mitigated the causes for concerns associated with each of the recommendations reviewed. Therefore, we do not make any conclusions as to the effectiveness of the corrective actions taken.

We reviewed documentation provided by the Office of Policy to validate information recorded in the Management Audit Tracking System regarding completed corrective actions for the three recommendations. We also reviewed EPA guidance documents and correspondence as part of our analysis for this review.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

<sup>1</sup> Prior to January 2012, the name of the EPA's database for creating and tracking rules was the Rule and Policy Information and Development System (RAPIDS). In January 2012, the EPA launched a new database to replace RAPIDS, called ADP TRACKER.

## Results of Review

EPA reported completed corrective actions for Recommendations 1, 2 and 3 from the 2013 OIG report. Our review found that the EPA's corrective actions met the intent for our three recommendations.

### ***EPA Action for Recommendation 1***

Recommendation 1 required the EPA to establish guidance that clarifies roles and responsibilities in ADP implementation, including data entry, record keeping, and the status of action development. On August 15, 2013, the EPA issued the guidance document *ADP TRACKER Data Entry Responsibilities*. Our review identified that this guidance document addressed all the elements in our recommendation.

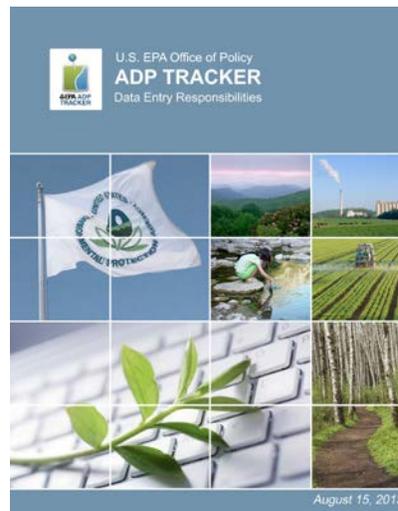


Figure 1: Cover page of EPA's *ADP TRACKER Data Entry Responsibilities* guidance document.

### ***EPA Action for Recommendation 2***

Recommendation 2 required the EPA to ensure that ADP TRACKER has established clear roles, responsibilities and requirements for the program offices to upload development documents; and that entries are updated in a timely manner, are monitored for data quality, and all features available are used to evaluate the efficiency of the rule development process. In August 2013, the EPA issued two guidance documents—*ADP TRACKER Data Entry Responsibilities* and *ADP TRACKER Milestone Management for AAships*. Our review identified that these guidance documents addressed all elements requested in our recommendation.

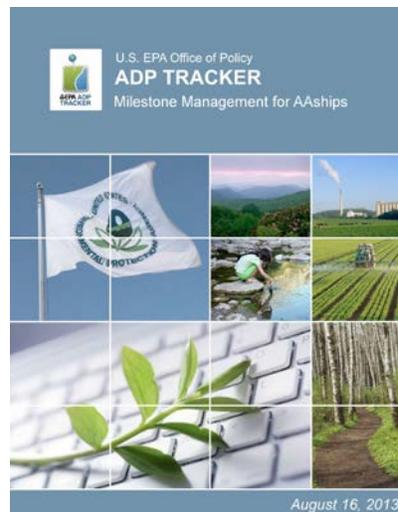


Figure 2: Cover page of EPA's *ADP TRACKER Milestone Management for AAships* guidance document.

### ***EPA Action for Recommendation 3***

Recommendation 3 required the EPA to develop and implement a method to track resource use in key rulemaking activities. Recommendation 3 was unresolved when we issued our 2013 OIG report because the EPA disagreed with the

recommendation. During the recommendation resolution process, the Office of Policy proposed using existing budget and financial management systems to support resource allocation decisions in the EPA's rule development activities. The OIG accepted the proposed action. Our review finds that the Office of Policy's action meets the intent of the recommendation, which we now consider resolved.

## **Conclusion**

The EPA completed actions to address the issues raised in the OIG's 2013 report on the ADP. These actions should improve clarity and consistency in the EPA's implementation of the rulemaking process.

## ***Distribution***

Office of the Administrator  
Associate Administrator for Policy  
Agency Follow-Up Official (the CFO)  
Agency Follow-Up Coordinator  
General Counsel  
Associate Administrator for Congressional and Intergovernmental Relations  
Associate Administrator for Public Affairs  
Audit Follow-Up Coordinator, Office of the Administrator