



At a Glance

Why We Did This Review

We evaluated the U.S. Environmental Protection Agency's (EPA's) oversight of regional and state compliance with Clean Water Act (CWA) §316(a) and (b) requirements. These requirements are in place to help protect aquatic organisms from the impacts of thermal discharges and cooling water intake structures. CWA §316(b) requires that NPDES permits for facilities with cooling water intake structures ensure that the location, design, construction, and capacity of the structures reflect the best technology available to minimize harmful impacts on the environment. The permitting authority may issue a variance under CWA §316(a) to allow facilities to discharge cooling waters at an alternative, less stringent thermal effluent limit that is still protective of aquatic life.

This report addresses the following EPA Goal or Cross-Cutting Strategy:

- *Protecting America's waters.*

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

The full report is at:
www.epa.gov/oig/reports/2013/20130523-13-P-0264.pdf

EPA Oversight Addresses Thermal Variance and Cooling Water Permit Deficiencies But Needs to Address Compliance With Public Notice Requirements

What We Found

Since the 1980s, EPA has had an oversight process, known as Permit Quality Reviews (PQRs), to promote permit quality and ensure a reasonable degree of national consistency with regard to core program requirements. The PQRs EPA conducted from 2007 to 2010 identified a number of deficiencies in NPDES permits, which EPA made recommendations to improve. Our review of EPA's PQR oversight process found it has generally been effective in determining the quality of permits. Like EPA, we found deficiencies in permits or supporting documents. For example, 55 percent of the fact sheets in our sample did not contain an explanation of the state's or EPA's decision in the permit that facilities use the best technology available to minimize the environmental impact of the cooling water intake structures regulated under CWA §316(b). Conversely, 75 percent of the fact sheets we reviewed contained an explanation of the state's or EPA's decision to approve the facilities' requests for CWA §316(a) thermal variances. A fact sheet briefly presents the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit.

None of the public notices we reviewed contained all of the required statements describing the proposed §316(a) thermal variance. We found that EPA's quality assurance reviews are not designed to address whether public notices for permits with a §316(a) thermal variance contain required information under the Code of Federal Regulations (CFR) per 40 CFR §124.57. As a result, EPA's quality assurance reviews did not identify deficiencies in public notices. EPA established this regulation so that permitting authorities would use public notices to inform the public about proposed thermal variances.

Recommendation and Planned Agency Corrective Action

We recommend that the Assistant Administrator for Water develop and implement oversight mechanisms that will help states and regions consistently comply with CWA §316(a) public notice requirements. The Agency agreed with our recommendation and committed to implementing corrective actions by June 30, 2013.

Noteworthy Achievements

The Office of Water is working to improve the quality of permits through its PQR process. Quality assurance evaluations assess whether NPDES permits written by states and regions comply with regulations. Through this review process, the Office of Water works to promote national consistency in permits, identify best practices in state NPDES programs, and recommend opportunities for improvement in state and regional permit programs.