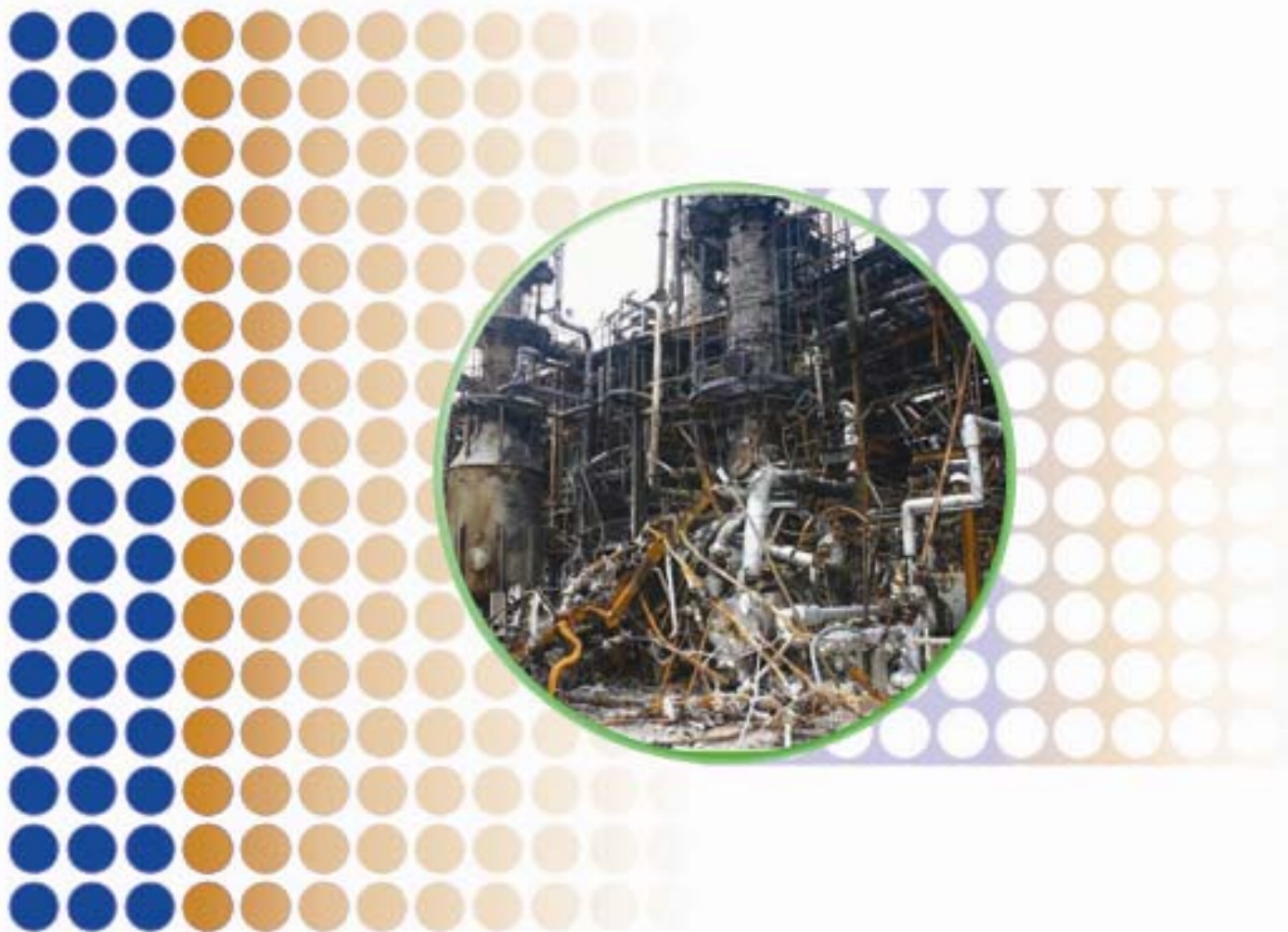


U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD  
OFFICE OF INSPECTOR GENERAL

# SEMIANNUAL REPORT TO CONGRESS

April 1, 2012–September 30, 2012



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November 2012

## **Index of Reporting Requirements**

*Inspector General Act of 1978, as amended*

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**The Office of Inspector General for the  
U.S. Chemical Safety and Hazard Investigation Board  
can be contacted at:**

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Office of Inspector General  
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Washington, DC 20460  
(202) 566-0847

## **Hotline**

**To report fraud, waste, or abuse, contact us through one of the following methods:**

**e-mail:** [OIG\\_Hotline@epa.gov](mailto:OIG_Hotline@epa.gov)  
**phone:** 1-888-546-8740  
**fax:** 202-566-2599  
**online:** <http://www.epa.gov/oig/hotline.htm>

**write:** EPA Inspector General Hotline  
1200 Pennsylvania Avenue NW  
Mailcode 2431T  
Washington, DC 20460



## Message to Congress

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This Semiannual Report contains the results of our work related to the U.S. Chemical Safety and Hazard Investigation Board (CSB) for the reporting period April 1, 2012, through September 30, 2012.

Congress designated the Inspector General of the U.S.

Environmental Protection Agency to serve as the Inspector General for CSB in fiscal year 2004. We have the responsibility to audit, evaluate, inspect, and investigate CSB's programs. In this role, we strive to provide sufficient attention to CSB and its risks and vulnerabilities to fulfill our statutory responsibilities while not overburdening CSB given its size and budget.

CSB issues safety recommendation reports to government agencies, companies, and others designed to prevent future accidents.

However, these recommendations are only suggestions for actions;

CSB does not have the authority to enforce the recommendations.

Nonetheless, as we reported during this semiannual period, we believe CSB can establish better internal controls and processes for safety recommendations to increase the likelihood that recipients will implement them.

We also identified two management challenges for CSB. One challenge is that CSB should request that Congress clarify its statutory mandate because CSB has an investigative gap between the number of accidents that it investigates and the number of accidents that fall under its statutory responsibility to investigate. CSB believes it is operating according to its statutory mandate, and cites a lack of resources for not doing more investigations. Another challenge involves promulgating a chemical incident reporting regulation. Public stakeholder comments to the proposed regulation indicated it was no longer necessary. CSB should submit a preliminary plan to the Office of Management and Budget noting its determination that such a rule should be repealed.

We will continue to work with both the Board of CSB and Congress as we pursue the common goal of preventing future accidental chemical releases at facilities while using resources more effectively and efficiently.



Arthur A. Elkins, Jr.

A handwritten signature in black ink that reads "Arthur A. Elkins, Jr." The signature is written in a cursive, flowing style.

Arthur A. Elkins, Jr.  
Inspector General

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# About CSB and Its Office of Inspector General

The U.S. Chemical Safety and Hazard Investigation Board (CSB) was created by the Clean Air Act Amendments of 1990. CSB's mission is to investigate accidental chemical releases at facilities, report to the public on the root causes, and recommend measures to prevent future occurrences.



In fiscal year 2004, Congress designated the Inspector General of the U.S. Environmental Protection Agency to serve as the Inspector General for CSB. The Office of Inspector General (OIG) has the responsibility to audit, evaluate, inspect, and investigate CSB's programs, and to review proposed laws and regulations to determine their potential impact on CSB's programs and operations. Details on our work involving CSB are available at <http://www.csb.gov/service.default.aspx>. During the semiannual reporting period, the OIG issued one report to CSB and also provided CSB with two management challenges.

## Significant OIG Activity

### Report Finds CSB Should Improve Its Recommendations Process

A report issued August 22, 2012, found that CSB did not consistently achieve its goals and standards, as outlined in its current strategic plan, for timely implementation of its safety recommendations.

CSB issues recommendation reports to government agencies, companies, trade associations, labor unions, and other groups. The reports contain specific, measurable safety recommendations designed to prevent future accidents. However, these recommendations are only suggestions for actions; CSB does not have the authority to enforce its safety recommendations. In 2004, CSB created the Office of Recommendations to work with recipients to pursue closure of safety recommendations by recipients' taking acceptable actions.

As of December 2010, CSB had issued 588 safety recommendations, of which 218 (37 percent) were open while actions were in progress to resolve them. Of the 218 open recommendations, 54 (nearly 25 percent) were open for more than 5 years. However, as noted, CSB does not have enforcement authority and implementation of some of its recommendations may face lengthy regulatory processes. Nonetheless, CSB can establish better internal controls and processes for safety recommendations to increase the likelihood that recipients will implement CSB safety recommendations.

We recommended that the CSB Chairperson update board orders that establish policies for the Recommendation Program, timeliness of board votes, and coordination between CSB offices. We also recommended that the Chairperson make full use of CSB's Total Records and Information Management system and implement a formal advocacy program for safety recommendation implementation. CSB concurred with all our recommendations except one involving implementing guidelines that define the length of time notation items can be calendared before a vote must be taken. We consider that recommendation unresolved but we are working toward a resolution. CSB has redrafted Board Order 022 to improve the data quality of its recommendation information. CSB plans to update Board Order 040 to enhance collaboration between investigations and recommendations personnel.

*(Report No. 12-P-0724, U.S. Chemical Safety and Hazard Investigation Board Should Improve Its Recommendations Process to Further Its Goal of Chemical Accident Prevention, August 22, 2012)*

## **Management Challenges Presented to CSB**

According to the Government Performance and Results Act Modernization Act of 2010, major management challenges are programs or management functions that have greater vulnerability to waste, fraud, abuse, and mismanagement, and a failure to perform well could seriously affect the ability of an agency of the federal government to achieve its mission or goals. On September 19, 2012, the OIG provided the following two management challenges to CSB:

- **Clarifying CSB's statutory mandate.** CSB has an investigative gap between the number of accidents that it investigates and the number of accidents that fall under its statutory responsibility to investigate. CSB believes it is operating according to its statutory mandate and cites a lack of resources to investigate the additional accidents cited. In a letter dated November 5, 2009, CSB requested that Congress clarify CSB's statutory mandate as it relates to investigating chemical accidents. To date, there has been no response from Congress. CSB needs to follow up with the relevant congressional committees on the status and resolution of this issue.
- **Promulgating a chemical incident reporting regulation.** CSB has not published a chemical incident reporting regulation as envisioned in the Clean Air Act Amendments. In 2008, the U.S. Government Accountability Office recommended that CSB publish a regulation requiring facilities to report all chemical accidents. In 2009, CSB notified the public of a proposed reporting regulation. Public stakeholder comments to the proposed reporting regulation indicated it was no longer necessary. The comments stated that Internet search engines and alerts that notify CSB in almost real time of incidents did not exist when the requirement for the regulation was established in the 1980s. CSB should submit a preliminary plan to the Office of Management and Budget noting its determination that such a rule should be repealed to make the organization's regulatory program more effective, streamlined, and less burdensome in achieving its objectives.

# Legislation/Regulations Reviewed

Section 4(a) of the Inspector General Act requires the Inspector General to review existing and proposed legislation and regulations relating to the program and operation of the organizations for which it is responsible and to make recommendations concerning their impact. The audit report issued during this period and the management challenges OIG provided to CSB contain our recommendations on the reviewed Board policies, CSB statute, and CSB proposed regulation.

# Statistical Data

## Profile of Activities and Results

<b>Audit and evaluation operations</b>	
<b>Office of Inspector General reviews</b>	
April 1, 2012 – September 30, 2012	
Questioned costs	\$0
Recommended efficiencies	\$0
Costs disallowed to be recovered	\$0
Costs disallowed as cost efficiency	\$0
Reports issued by OIG	1
Reports resolved (Agreement by Board officials to take satisfactory corrective actions)	0

<b>Investigative Operations</b>	
April 1, 2012–September 30, 2012	
Total Fines and Recoveries	\$0
Cost Savings	\$0
Cases Opened During Period	0
Cases Closed During Period	1
Indictments/Informations of Persons or Firms	0
Convictions of Persons or Firms	0
Civil Judgments/Settlements/Firings	0



## Audit, Inspection, and Evaluation Report Resolution

### Status report on perpetual inventory of reports in resolution process for semiannual period ending September 30, 2012

Report category	No. of reports	Report issuance		Report resolution costs sustained	
		Questioned costs	Recommended efficiencies	To be recovered	As efficiencies
A. For which no management decision was made by April 1, 2012	0	\$0	\$0	\$0	\$0
B. Which were issued during the reporting period	1	\$0	\$0	\$0	\$0
C. Which were issued during the reporting period that required no resolution	0	\$0	\$0	\$0	\$0
Subtotals (A + B - C)	1	\$0	\$0	\$0	\$0
D. For which a management decision was made during the reporting period	0	\$0	\$0	\$0	\$0
E. For which no management decision was made by September 30, 2012	1	\$0	\$0	\$0	\$0

## Status of management decisions on OIG reports

This section presents additional statistical information that is required by the Inspector General Act of 1978, as amended, on the status of CSB management decisions on reports issued by the OIG involving monetary recommendations.

**Table 1: Inspector general-issued reports with questioned costs for semiannual period ending September 30, 2012**

Report category	No. of reports	Questioned costs	Unsupported costs
A. For which no management decision was made by April 1, 2012	0	\$0	\$0
B. New reports issued during period	0	\$0	\$0
Subtotals (A + B)	0	\$0	\$0
C. For which a management decision was made during the reporting period:	0	\$0	\$0
(i) Dollar value of disallowed costs	0	\$0	\$0
(ii) Dollar value of costs not disallowed	0	\$0	\$0
D. For which no management decision was made by September 30, 2012	0	\$0	\$0
Reports for which no management decision was made within 6 months of issuance	0	\$0	\$0

**Table 2: Inspector general-issued reports with recommendations that funds be put to better use for semiannual period ending September 30, 2012**

Report Category	No. of reports	Dollar value
A. For which no management decision was made by April 1, 2012	0	\$0
B. Which were issued during the reporting period	0	\$0
Subtotals (A + B)	0	\$0
C. For which a management decision was made during the reporting period:	0	\$0
(i) Dollar value of recommendations from reports that were agreed to by management	0	\$0
(ii) Dollar value of recommendations from reports that were not agreed to by management	0	\$0
(iii) Dollar value of nonawards or unsuccessful bidders	0	\$0
D. For which no management decision was made by September 30, 2012	0	\$0
Reports for which no management decision was made within 6 months of issuance	0	\$0

## Hotline Activity

The following table shows OIG hotline activity regarding complaints of fraud, waste, and abuse in CSB programs and operations during the semiannual reporting period ending September 30, 2012.

	<b>Semiannual period (April 1, 2012 – September 30, 2012)</b>
<b>Issues open at the beginning of the period</b>	1
<b>Inquiries received during the period</b>	1
<b>Inquiries closed during the period</b>	0
<b>Inquiries pending at the end of the period</b>	2
<b>Issues referred to others</b>	
<b>OIG offices</b>	2
<b>CSB</b>	0

## Summary of Investigative Results

### Summary of investigative activity during reporting period

Cases open as of April 1, 2012	2
Cases opened during period	0
Cases closed during period	1
Cases pending as of September 30, 2012	1

### Results of prosecutive actions

	OIG only	Joint *	Total
Criminal indictments/informations/complaints	0	0	0
Convictions	0	0	0
Civil judgments/settlements/filings	0	0	0
Deportations	0	0	0
Fines and recoveries (including civil)	0	0	0
Prison time	0	0	0
Prison time suspended	0	0	0
Home detention	0	0	0
Probation	0	0	0
Community service	0	0	0

\* With another federal agency.

### Administrative actions

	OIG only	Joint *	Total
Suspensions	0	0	0
Debarments	0	0	0
Other administrative actions	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Administrative recoveries</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Cost avoidance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* With another federal agency.

# Appendices

## Appendix 1—Reports Issued

The Inspector General Act of 1978, as amended (IG Act), requires a listing, subdivided according to subject matter, of each report issued by the OIG during the reporting period. For each report, where applicable, the IG Act also requires a listing of the dollar value of questioned costs and the dollar value of recommendations that funds be put to better use.

Report no.	Report title	Date	Questioned Costs			Federal Recommended efficiencies
			Ineligible costs	Unsupported costs	Unreasonable costs	
<b>PERFORMANCE REPORTS</b>						
12-P-0724	U.S. Chemical Safety and Hazard Investigation Board Should Improve Its Recommendations Process to Further Its Goal of Chemical Accident Prevention	Aug. 22, 2012	\$0	\$0	\$0	\$0
TOTAL PERFORMANCE REPORTS = 1			\$0	\$0	\$0	\$0
TOTAL REPORTS ISSUED = 1			\$0	\$0	\$0	\$0

## Appendix 2—Reports Issued Without Management Decisions

### For Reporting Period Ended September 30, 2012

The Inspector General Act of 1978, as amended, requires a summary of each audit report issued before the commencement of the reporting period for which no management decision had been made by the end of the reporting period, an explanation of the reasons such management decision had not been made, and a statement concerning the desired timetable for achieving a management decision on each such report. Office of Management and Budget Circular A-50 requires resolution within 6 months of a final report being issued.

As of September 30, 2012, no reports met the reporting requirement.

## Appendix 3—Reports With Corrective Action Not Completed

In compliance with reporting requirements of Section 5(a)(3) of the Inspector General Act of 1978, as amended, "Identification of Reports Containing Significant Recommendations Described in Previous Semiannual Reports on Which Corrective Action Has Not Been Completed," we are providing the following summaries on reports with corrective action not completed.

### Unimplemented Recommendations with Past Due Dates

**Report Title:** Chemical Safety and Hazard Investigation Board Did Not Take Effective Corrective Actions on Prior Audit Recommendations  
**Report No.:** 11-P-0115  
**Date Issued:** 02/15/11

#### Report Summary

CSB did not take timely corrective actions to address a total of 34 audit recommendations from three OIGs and from the U.S. Government Accountability Office (GAO). In four instances, it took CSB 4 years beyond the agreed-upon corrective actions date (or report date) to implement corrective actions. CSB's actions to address 13 recommendations were not completely effective and require additional corrective actions, and 7 recommendations are not yet completed.

CSB has not established and implemented a management control program to evaluate and report on the effectiveness of controls related to its program operations. CSB's control environment and control activities do not ensure accountability. Specifically, CSB's office directors are not accountable for achieving individual and program initiatives leading to chemical accident prevention. Effective control activities, including Board Orders, have not been developed and implemented. In addition, without a clearly defined statutory mandate, CSB will face difficulties in developing outcome-related goals for measuring its impact on chemical accident prevention. Without effective controls, CSB is not timely in carrying out initiatives to achieve the Board's goal of chemical accident prevention. On September 16, 2010, CSB announced an internal reorganization, appointing a managing director who will oversee all aspects of CSB operations. A managing director who ensures accountability should provide for more timely and effective resolution of audit recommendations.

#### Unimplemented Recommendations

**Recommendation 1:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, develop and implement a management control plan that documents and addresses the five internal control standards in accordance with Office of Management and Budget Circular A-123 and GAO's *Standards for Internal Controls in the Federal Government*. The plan should include an effective monitoring system to track corrective actions to address and implement audit recommendations. The plan is to include:

- a. A database to track all prior audit recommendations, planned milestone completion dates, and corrective actions taken.
- b. Procedures for conducting periodic internal control reviews and properly documenting those reviews, including verifying and ensuring that audit recommendations are resolved promptly.

**Status:** CSB agreed to develop a management control plan as an initiative in its fiscal year 2011 action plan. CSB indicated that the management control plan is being developed in conjunction with the strategic plan. The internal control framework will stem from the strategic plan framework. Specifically, the strategic plan will cascade into a redesigned action plan, which will then flow to individual performance plans. In addition, the management control plan will look at the Board Orders and address their revision as well as new "operating procedures" which do not require a Board vote themselves, but provide administrative guidance to staff. The agreed-to completion date for this corrective action was February 28, 2011.

**Recommendation 2:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, develop and publish a regulation requiring persons to report chemical accidents, as required by the Clean Air Act.

***Status:*** CSB agreed to issue a proposed rule on accident reporting as an initiative in its fiscal year 2011 action plan. After further considering this issue, the CSB believes that it receives adequate incident notifications through constant media and Internet searches, as well as existing federal sources such as the National Response Center. In 2011, the CSB recorded 282 high-consequence incidents using these data sources; of these the CSB deployed investigators to five sites. Accordingly, the CSB will consult with its congressional committees of jurisdiction by April 30, 2012, requesting clarification on whether there is a desire to preserve the mandate in the existing statute. In addition, as a prelude to a possible reporting rule, the CSB will develop a letter with questions to be sent to companies that have experienced incidents. Responses to the letter will inform the design of a future reporting form. The letter will be developed by July 31, 2012. The agreed-to completion date for this corrective action was September 30, 2011.

**Recommendation 3:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, follow up with Congress on the CSB request for clarification of its statutory mandate. Upon receipt of the response, develop a plan to describe and address the investigative gap, address prior audit recommendations, and request the necessary resources to meet CSB's statutory mandate.

***Status:*** CSB agreed to transmit a formal package of suggested legislative improvements to CSB's congressional authorizing committee as an initiative in its fiscal year 2011 action plan. The package will include suggested language to clarify the statutory mandate to investigate. CSB noted that it is not in a position to guarantee a congressional response as indicated in our recommendation. CSB now believes this recommendation should be closed since the CSB raised the statutory issue with Congress by letter in November 2009; in addition the letter from then-Chairman Bresland stated, "Pending any further direction from Congress, the CSB will continue to adhere to its interpretation of its statutory authority and mandate." Nonetheless, the CSB will remind the relevant committees of this issue when it writes concerning the incident report rule by April 30, 2012. The agreed-to completion date for this corrective action was April 30, 2011.

**Recommendation 5:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, develop and implement a system for periodic reviews of Board Orders to ensure they remain updated (i.e., effective date of the policy and scheduled review date) and include the requirement for such a system in the management control plan.

***Status:*** CSB agreed to develop a system for periodic reviews of Board Orders and include the requirement for such a review in the management control plan. CSB indicated that the management control plan will look at the Board Orders and address their revision as well as new "operating procedures" which do not require Board vote themselves, but provide administrative guidance to staff. The agreed-to completion date for this corrective action was February 28, 2011.

**Recommendation 6:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, take corrective actions that will satisfy prior audit recommendations by updating and formalizing Board Orders that are essential to facilitate and manage effective and efficient control activities. Specifically, update:

- a. Board Order 036, "Incident Selection Process," to reflect current changes, such as its data sources, changes due to technology improvements, and the incident selection process decision-making flowchart, to improve the incident screening and deployment decision-making process. In addition, formalize the Incident Screeners Guide (appendix A, audit recommendation 17, 18, 19, 20, and 31).
- b. Board Order 040, "Investigation Protocol," to govern employees retaining memberships in societies or organizations to which the CSB issues recommendations (appendix A, audit recommendation 21).
- c. Board Order 027, "Roles, Responsibilities, and Standards of Conduct in Procurement Activities," to reflect current procurement practices and processes to ensure consistency in the procurement process (appendix A, audit recommendation 7).
- d. Board Order 022, "Recommendation Program," to include new practices adopted for following up on safety recommendations, to include a quality review program to ensure timely follow-up on closed safety recommendations (appendix A, audit recommendations 12 and 15).
- e. Board Order 028, "Executive Administrative Functions of the Board," to document the role and responsibility of the managing director position.



**Status:** CSB indicated its intention to satisfy prior audit recommendations by updating and formalizing Board Orders that are essential to facilitate and manage effective and efficient control activities. CSB has completed the corrective actions for items “a” and “b.” For the other items, specifically:

- c. CSB agreed to improve the procurement program as an initiative in the fiscal year 2011 action plan. As part of this initiative, CSB will update Board Order 027 as appropriate. CSB is currently analyzing a way to administratively correct Board Orders when offices or positions are eliminated. Responsibilities will likely be transferred back to the Chairperson who can redelegate as appropriate. The agreed-to completion date for this corrective action was March 31, 2011.
- d. CSB agreed to consider including a quality review program to ensure timely follow-up on safety recommendations in Board Order 022. CSB will also update the Recommendations Office “Standards of Practice” document and expects that the Board Order will contain general guidance and the Standards of Practice will include detailed procedures. CSB indicated that it is currently awaiting new OIG audit recommendations on the CSB’s Recommendation Program so that Board Order 022 can have a single comprehensive revision. The agreed-to completion date for this corrective action was September 30, 2011.
- e. CSB agreed to review Board Order 028, and update it as appropriate to reflect the role and responsibility of the Managing Director position by September 20, 2011. CSB determined, as of February 14, 2012, after review of Board Order 028, that it is not appropriate to document the role and the responsibilities of the Managing Director in this Board Order. The purpose of the Board Order is to establish the manner in which the Board exercises its executive and administrative functions through the position of the Chairperson. The Managing Director is a staff position for which roles and responsibilities are appropriately established in the position description. CSB has determined that this recommendation is no longer applicable. The OIG, however, still considers the recommendation to be open.

### Unimplemented Recommendations with Future Dates

**Report Title:** Evaluation of U.S. Chemical Safety and Hazard Investigation Board’s Compliance with the Federal Information Security Management Act (Fiscal Year 2011)  
**Report No.:** 12-P-0363  
**Date Issued:** 03/21/12

#### Recommendations

**Recommendation 1:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, review and implement patches as required for network devices.

**Planned Corrective Action:** The CSB installed or completed the installation of the four missing patches identified in the scan and will continue to actively review and patch network devices.

**Planned Completion Date:** Ongoing

**Recommendation 2:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, develop and implement standard baseline configurations for the network devices.

**Planned Corrective Action:** The CSB will develop and implement standard baseline configurations.

**Planned Completion Date:** July 31, 2012 (corrective actions will be considered past due as of July 31, 2013)

**Recommendation 3:** We recommend that the Chairman, U.S. Chemical Safety and Hazard Investigation Board, review the information technology inventory and remove the excess inventory items by using the appropriate means through the General Services Administration.

**Planned Corrective Action:** The CSB will reduce excess information technology items inventory by 75 percent.

**Planned Completion Date:** September 30, 2012 (corrective actions will be considered past due as of September 30, 2013)

## Appendix 4—Peer Reviews Conducted

### Peer Review Conducted of this OIG

#### **Report on the External Quality Control Review of the Audit Organization of the U.S. Environmental Protection Agency, Office of Inspector General (Report No. A-07-12-01109, issued May 1, 2012)**

On May 1, 2012, the U.S. Department of Health and Human Services OIG provided the OIG of the U.S. Environmental Protection Agency (which serves as the OIG for CSB) with the final peer review report on the EPA OIG's audit organization. EPA OIG received a peer review rating of *pass*, with no deficiencies cited. The review covered the period October 1, 2008, through September 30, 2011.

### Peer Reviews Conducted by this OIG

On May 9, 2012, the OIG for the U.S. Environmental Protection Agency issued a quality assessment review report on the investigative operations of the U.S. Department of Energy OIG. We reviewed the system of internal safeguards and management procedures in effect for the period May 1, 2010, through April 30, 2011. In our opinion, the system of internal safeguards and management procedures for the investigative function were in compliance with the established quality standards and the applicable Attorney General guidelines.

Also during the semiannual reporting period, the OIG of the U.S. Environmental Protection Agency conducted an external peer review of the system of quality control for the audit organization of the U.S. Department of Agriculture OIG. Our review covers the period April 1, 2009, through March 31, 2012. Issuance of the final report is anticipated during the next semiannual reporting period.



