

U.S. ENVIRONMENTAL PROTECTION AGENCY

The U.S. Environmental Protection Agency's (EPA) mission is to protect human health and the environment. During the coronavirus pandemic, the EPA has made many adjustments to programs and operations by, for example, issuing regulatory waivers and making exceptions to regulatory requirements, policy, and internal controls. The EPA's most immediate response to the coronavirus pandemic has involved approving disinfectants to kill the SARS-CoV-2 virus, which causes the COVID-19 virus, on surfaces. The EPA has also developed a list of products that are registered to destroy viruses known to be as difficult—if not more difficult—to kill than SARS-CoV-2. In addition, to address pesticide supply chain shortages, the EPA is temporarily allowing companies to change—without prior EPA approval, as is typically required—the suppliers of certain active ingredients in approved products.

The OIG is tracking and reviewing EPA responses to the coronavirus pandemic. The OIG also plans to assess the risks of the EPA's emerging and existing activities to address the pandemic. To guide the OIG's work, the OIG has identified some initial challenges to the EPA's ability to achieve its mission, as well as to the EPA's internal operations. These challenges, and some of their associated risks, are detailed below.

Risks to EPA's Mission Achievement—Successful Implementation of EPA Programs

Enforcement and Fraud Risks

Effective enforcement is key to combating and deterring violations of law, including fraud. Inspections of recent imports have identified products marketed with unsubstantiated and potentially dangerous claims of protection against SARS-CoV-2. Companies are also fraudulently claiming that their products are approved or endorsed by the EPA or contain EPA-approved disinfectants for use against SARS-CoV-2. The prevalence of fraud related to EPA programs and operations will most likely increase as fraudsters identify new ways to exploit consumers frightened by the coronavirus pandemic.

The EPA has also implemented a temporary environmental enforcement policy that curtails several routine regulatory monitoring and enforcement activities. The EPA must maintain a robust enforcement program to address environmental violations and promote deterrence. The OIG recently reported that the EPA's enforcement activities and its resources for conducting routine regulatory enforcement work have declined over time.¹ Additional reduction in enforcement activity places the EPA's regulatory mission at greater risk and threatens the Agency's overall mission to protect human health and the environment.

State, Tribe, and Territory Program Implementation

States, tribes, and territories often act as the frontline implementers of federal environmental laws on the EPA's behalf. As a result of the coronavirus pandemic, these groups face financial and personnel challenges that further limit their ability to adequately implement federal requirements. Similar challenges face the nation's drinking water and wastewater utilities. Tribal drinking water and wastewater treatment operations have been particularly impacted by personnel shortages. Additional planning, assistance, and oversight by the EPA may be necessary to support states, tribes, territories, and local utilities facing resource strain under the coronavirus pandemic.

¹EPA OIG, *EPA's Compliance Monitoring Activities, Enforcement Actions, and Enforcement Results Generally Declined from Fiscal Years 2006 Through 2018* (20-P-0131, March 31, 2020).

Risk Communication to the Public

Recent OIG reports have identified risk communication as an Agency challenge, including a March 2020 management alert on ethylene oxide-emitting facilities.² The issues identified in that alert may persist or increase in severity as some of these facilities—particularly those that provide medical sterilization services—are further strained to address pandemic-related issues. Also, the lessened regulatory oversight noted above may produce environmental or public health risks requiring additional communication to affected communities.

Risks to EPA’s Operations—Maintaining a Safe and Productive EPA Workforce

Returning to Work Safely

The Agency must ensure that its field employees—inspectors, educators, on-scene coordinators, and others—can protect their own safety and the safety of those with whom they interact. This requires the EPA to procure additional personal protective equipment and adapt existing protocols. As the coronavirus pandemic persists, the EPA faces the challenge of eventually returning its 15,000-member workforce to federal office spaces. This requires successful implementation of cleaning, social distancing, and continued protection protocols across more than 150 EPA facilities.

Effective Remote Technology

The OIG previously identified the need for the EPA to enhance information security. This challenge has become more critical in the current environment. Continuing EPA operations in the face of the coronavirus pandemic has required the Agency to adapt its network to support a now primarily virtual workforce and provide an unprecedented number of remote employees with a reliable, stable means to communicate and access critical applications and data. Information technology (IT) helpdesk functions could be delayed by an overtaxed IT staff, who also must now deploy and manage new tools and technology. Unprecedented levels of remote access also raise the risk of security breaches of remotely stored and transmitted data.

Understanding Organizational Risk

The EPA does not have complete information about the preexisting organizational risks it faces in its programs and operations. This is exacerbated by the unprecedented crisis impacting EPA programs agency-wide. Furthermore, EPA has not received an increase in full-time equivalent positions or budget to address this significant regulatory workload. Without prior risk assessments, the EPA faces additional hurdles to adapt to the new risks presented by the coronavirus pandemic. For example, the OIG previously identified the EPA’s lack of a workload-needs assessment as a top management challenge. The absence of a robust workload analysis may affect the EPA’s ability to remain resilient in the face of illnesses or other limitations to existing program staffing.

Financially Sound Contract Oversight

The OIG has consistently raised concerns about the EPA’s oversight of contracts. The EPA faces a new challenge in contract management as a result of Section 3610 of the CARES Act, which authorizes agencies to reimburse contractors for the costs of paid leave for their personnel who are unable to both access a government-approved facility and telework because their jobs cannot be performed remotely. The EPA has advised that funds for Section 3610 will come from program offices, which would impact program funding. However, the EPA has not yet established guidance for implementing this section.

For more information on the EPA Office of Inspector General visit <https://www.epa.gov/office-inspector-general>.

² EPA OIG, *Management Alert: Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns* (20-N-0128, March 31, 2020).