

GAO

Report to the Ranking Member,
Committee on Environment and Public
Works, U.S. Senate

January 2012

SUPERFUND

Status of EPA's Efforts to Improve Its Management and Oversight of Special Accounts



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Highlights of [GAO-12-109](#), a report to the Ranking Member, Committee on Environment and Public Works, U.S. Senate

Why GAO Did This Study

Under the Superfund program, EPA has the authority to enter into agreements with potentially responsible parties for them to conduct a cleanup at hazardous waste sites or compel potentially responsible parties to do so. EPA can also conduct cleanups itself and then seek reimbursement. EPA is authorized to retain and use funds received from settlements with these parties in interest-earning, site-specific special accounts within the Trust Fund. These accounts provide resources in addition to annual appropriations to clean up sites. The number of accounts grew slowly until 1995 when EPA encouraged their greater use. After 1995, their number and dollar value increased. EPA headquarters is responsible for overseeing its regions' management of special accounts. In two reports issued in 2006 and 2009, the EPA IG made recommendations to EPA to better manage these accounts.

As requested, this report examines the (1) status—that is, balances, locations, and recent and planned uses—of Superfund special accounts, and (2) extent to which EPA's headquarters and regions have implemented processes and policies to improve the monitoring and management of these accounts. GAO analyzed EPA Superfund program data, guidance, and strategies, and interviewed EPA officials.

GAO is not making recommendations in this report. GAO provided a draft of this report to EPA for review and comment. EPA provided technical comments that were incorporated into the report, as appropriate.

View [GAO-12-109](#). For more information, contact Carolyn L. Yocom at (202) 512-7114 or yocomc@gao.gov.

January 2012

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Status of EPA's Efforts to Improve Its Management and Oversight of Special Accounts

What GAO Found

From fiscal year 1990 through October 2010, the Environmental Protection Agency's (EPA) 10 regions collected from potentially responsible parties almost \$4 billion in funds that were placed in special accounts. Nearly half of these funds are still available to be obligated for future Superfund cleanup; the remaining funds have already been obligated, but not all of these obligated funds have been disbursed. According to GAO's analysis of EPA data, EPA has plans to obligate almost all of the available funds in special accounts over the next 10 years. However, EPA regional officials told GAO that special account funds that are planned to be obligated are estimates rather than commitments, and the planned use of funds often changes as site circumstances warrant. As of October 2010, of the \$1.9 billion funds that EPA had obligated for Superfund cleanup expenses, \$1.6 billion had been disbursed.

According to GAO's review of EPA documents and interviews with agency officials, EPA has taken steps, including implementing strategies and guidance, in the last few years to better monitor and manage special accounts. EPA took these steps in response to the EPA Inspector General's (IG) findings and recommendations, as well as EPA officials' own recognition that the agency needed to provide better oversight of the special accounts process. These steps include the following:

- processes to better plan for the use of special account funds by adding a screen in the agency's Superfund database that enables EPA regions to enter special account planning data into specific data fields and create reports, so that officials can monitor the special account balances against planned obligations for ongoing and future site-specific response activities;
- increased oversight of special accounts, including designating a national special accounts coordinator who, among other things, conducts annual and midyear reviews and holds discussions with regional staff to evaluate their plans to allocate special account funds, and establishing a Special Accounts Senior Management Committee that meets semiannually to provide overall management oversight and monitor the status of special accounts; and
- strategies and guidance on how to plan for using special accounts, including an agencywide strategic plan, overall guidance for the regions on the proper use and planning of special accounts funds throughout the cleanup process, detailed guidance on the reclassification process, and a model memorandum for transferring funds from a special account to the Hazardous Substance Superfund Trust Fund (Trust Fund) and closing out a special account.

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Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
EPA	Environmental Protection Agency
IG	Inspector General
NPL	National Priorities List
PRP	potentially responsible party
TCE	Trichloroethylene
Trust Fund	Hazardous Substance Superfund Trust Fund

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

January 18, 2012

The Honorable James M. Inhofe
Ranking Member
Committee on Environment and Public Works
United States Senate

Dear Senator Inhofe:

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly referred to as “Superfund,” was enacted to protect human health and the environment from the effects of hazardous substances. Under CERCLA, the Environmental Protection Agency (EPA) has the authority to enter into agreements with potentially responsible parties (PRP) for them to conduct the cleanup at hazardous waste sites,¹ or compel PRPs to clean up sites. In addition, EPA can clean up the sites itself and then seek reimbursement from the PRPs. EPA’s primary source of funds for EPA-led cleanups of Superfund sites is its annual appropriations by Congress from the Hazardous Substance Superfund Trust Fund (Trust Fund), which receives a transfer from the general fund of the Treasury.

EPA is also authorized by CERCLA to retain and use funds received from settlements with a PRP, and EPA may hold these funds in interest-earning, site-specific accounts called “special accounts.”² These special accounts are interest-bearing subaccounts within the Trust Fund that are generally used for future cleanup actions at the sites associated with a specific settlement or to reimburse appropriated funds that EPA had previously used for response activities at these sites. These accounts help EPA respond to and clean up sites by providing resources in addition to EPA’s annual appropriations. In 1990, EPA had five special accounts totaling about \$1.9 million. Over the next few years, the number of special accounts increased slowly. However, beginning in 1995, EPA issued

¹Under CERCLA, PRPs generally include current or former owners and operators of a site or the generators or transporters of the hazardous substances.

²CERCLA section 122(b)(3) was added in 1986, establishing EPA’s authority to retain and use funds from an agreement with PRPs, which EPA has implemented through the use of special accounts.

memorandums and guidance encouraging greater use of special accounts. Since that time the number and dollar value of these accounts has steadily increased. EPA's regional offices are primarily responsible for establishing and managing special accounts for the Superfund sites located in their region, and EPA headquarters offices are responsible for overseeing the regional offices' management of these accounts.

In two reports, issued in 2006 and 2009, the EPA Inspector General (IG) made recommendations to improve the management of Superfund special accounts.³ In 2009, for example, the IG stated that EPA needed to assign a central management official to be responsible for developing an action plan to ensure that the management accountability and related issues regarding special accounts that the IG had identified were addressed. The IG recommended that this action plan include, among other things, (1) an annual planning process to aid in monitoring special accounts, (2) more guidance or a policy that addresses how special accounts should be implemented and used, and (3) plans for developing complete reports with accurate special accounts data from EPA's Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database to manage the program and improve its performance.⁴

In this context, you asked us to examine EPA's Superfund special accounts. Specifically, our objectives were to (1) describe the status—including balances, locations, and recent and planned uses—of Superfund special accounts and (2) examine the extent to which EPA's headquarters and regions have implemented processes and policies to improve the monitoring and management of Superfund special accounts.

To conduct this work, we reviewed relevant law and EPA guidance and interviewed senior officials at EPA's headquarters and regional offices. Specifically, to describe the status of special accounts, we obtained and analyzed data regarding all special accounts from EPA's CERCLIS

³EPA Office of Inspector General, Evaluation Report: *EPA Can Better Manage Superfund Resources*, Report No. 2006-P-00013, Feb. 28, 2006. EPA Office of Inspector General, Evaluation Report: *Improved Management of Superfund Special Accounts Will Make More Funds Available for Clean-ups*, Report No. 09-P-0119, Mar. 18, 2009.

⁴CERCLIS is EPA's automated inventory of site information for all potential or confirmed Superfund sites. It contains information on hazardous waste site assessment and remediation from 1983 to the present.

database, as of October 2010.⁵ To assess the reliability of the CERCLIS data, we reviewed relevant documentation, examined the data to identify obvious errors and inconsistencies, and interviewed knowledgeable agency officials to see if there were any known problems with the data and to learn more about their procedures for maintaining the data. We determined that the data were sufficiently reliable for the purposes of this report. To examine the extent to which EPA's headquarters and regions are implementing processes and policies to improve the monitoring and management of Superfund special accounts, we analyzed documents and interviewed officials from EPA headquarters offices, including the Office of Superfund Remediation and Technology Innovation, the Office of Site Remediation Enforcement, and the Office of the Chief Financial Officer. We also interviewed EPA's IG officials regarding their 2006 and 2009 reports on EPA's management of special accounts. According to these officials, all recommendations from these two reports were closed out based on EPA's response. In addition, we conducted interviews with officials in EPA's 10 regional offices to determine how each region managed and monitored its special accounts and coordinated with EPA headquarters. We also obtained from the regional offices relevant supporting documentation, including detailed information on 20 of 285 special accounts. We selected 20 accounts on the basis that EPA headquarters had either raised questions about them with the regions or recommended that the regions take further actions on issues relating to them that arose during EPA's fiscal year 2010 annual review of the regions' planning data for special accounts. We reviewed data on these 20 accounts to determine how and to what extent regional offices had addressed these issues. These 20 special accounts were chosen from a random nonprobability sample of the 285 accounts and therefore cannot be generalized to all special accounts. A more detailed discussion of our scope and methodology is presented in appendix I.

We conducted this performance audit from October 2010 to January 2012 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

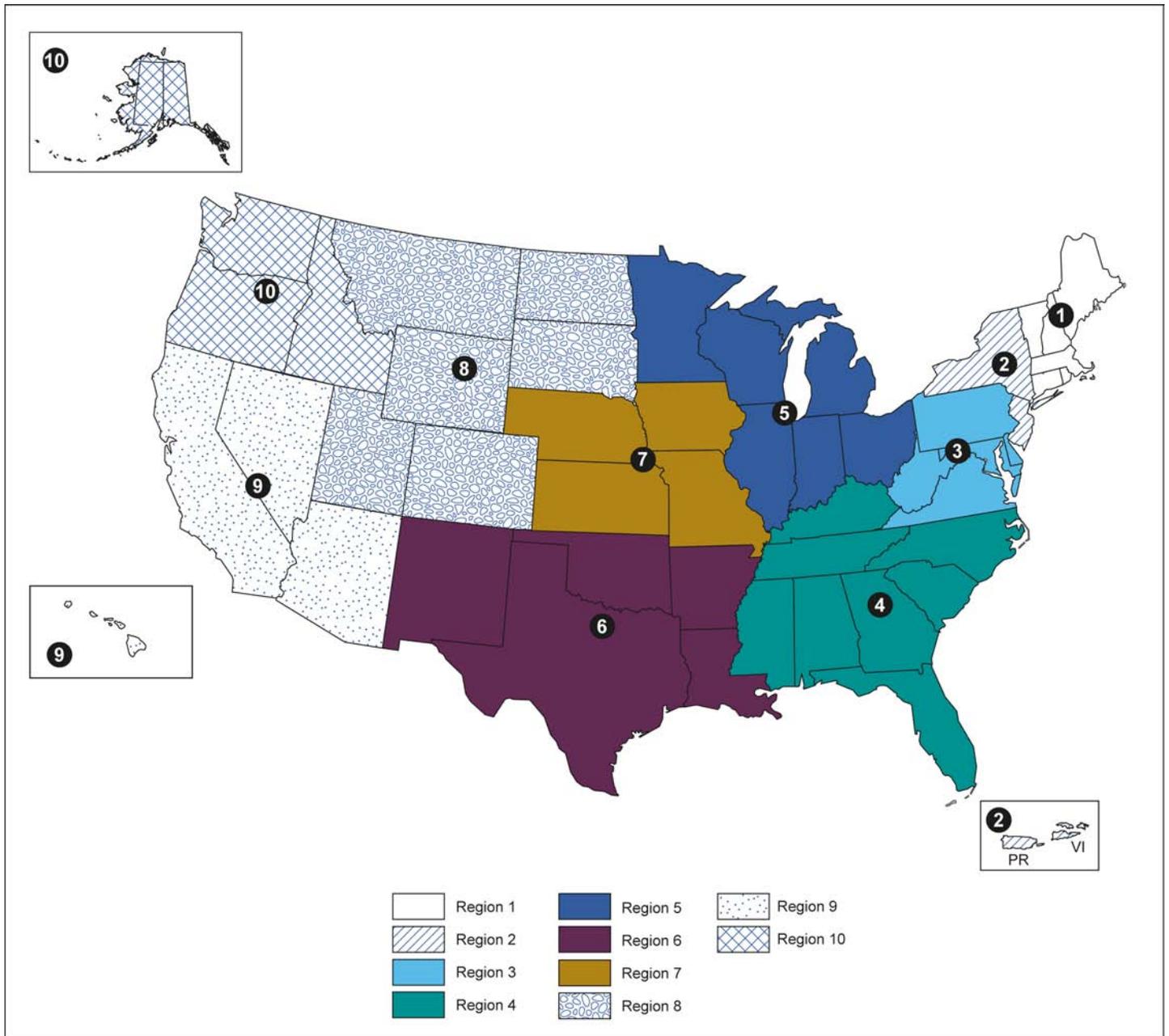
⁵Unless otherwise stated, all EPA data collected are as of October 2010—the most current available data at the time of our review.

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

CERCLA, often referred to as the “Superfund” law, gave the federal government the authority to respond to actual and threatened releases of hazardous substances, pollutants, and contaminants that may endanger public health and the environment. EPA established the Superfund program to carry out these responsibilities. Data as of September 2011—the most current data available—show that there were 13,856 sites in EPA’s CERCLIS active site inventory, which may require attention under EPA’s Superfund program. Management of these sites, including the special accounts associated with them, has historically been the responsibility of the EPA region in which a site is located. EPA has 10 regional offices, each one responsible for the execution of EPA programs within several states and, in some regions, territories. Figure 1 shows the states included in each of the 10 regions.

Figure 1: EPA's 10 Regions



Source: GAO.

This section discusses (1) EPA's process for cleaning up Superfund sites, (2) EPA's enforcement process for site cleanup, (3) the Trust Fund established under CERCLA, (4) EPA's use of special accounts for Superfund cleanup, and (5) the EPA IG's recommendations for better management of these special accounts.

EPA's Process for Cleaning Up Superfund Sites

EPA's Superfund cleanup process can be lengthy, sometimes taking decades to clean up contamination to the standards selected for a site. The cleanup process involves a series of steps during which specific activities take place or decisions are made. The first step occurs when the Superfund program is notified of a potential site through various mechanisms, including receipt of citizens' petitions, and referrals or notifications from states, tribes, and other federal agencies. Following notification, a site undergoes a minimal screening process, called a pre-CERCLIS screening, to determine whether a site assessment process is appropriate. Sites deemed appropriate are added to the CERCLIS active site inventory. During the site assessment process, EPA and states collect data to identify, evaluate, and rank hazardous waste sites based on Hazard Ranking System criteria.⁶ Using these criteria, EPA and/or its state and tribal partners conduct a preliminary assessment and, if warranted, a site inspection or other more in-depth assessment to determine whether the site warrants short- or long-term cleanup attention. Sites that EPA determines are among the nation's most seriously contaminated hazardous waste sites are placed on the National Priorities List (NPL) for attention under the federal Superfund program. Cleanup work under CERCLA generally involves two categories of actions: short-term removal actions that address immediate threats to human health and the environment, and long-term remedial actions that aim to permanently or significantly reduce contamination. Only sites on the NPL are eligible for Trust Fund-financed remedial actions, but sites not listed on the NPL may be remediated with private funds, in some instances with EPA oversight. EPA conducts removal actions at both NPL and non-NPL sites.

EPA or a PRP will begin the remedial process by conducting a two-part study of the site: (1) a remedial investigation to characterize site

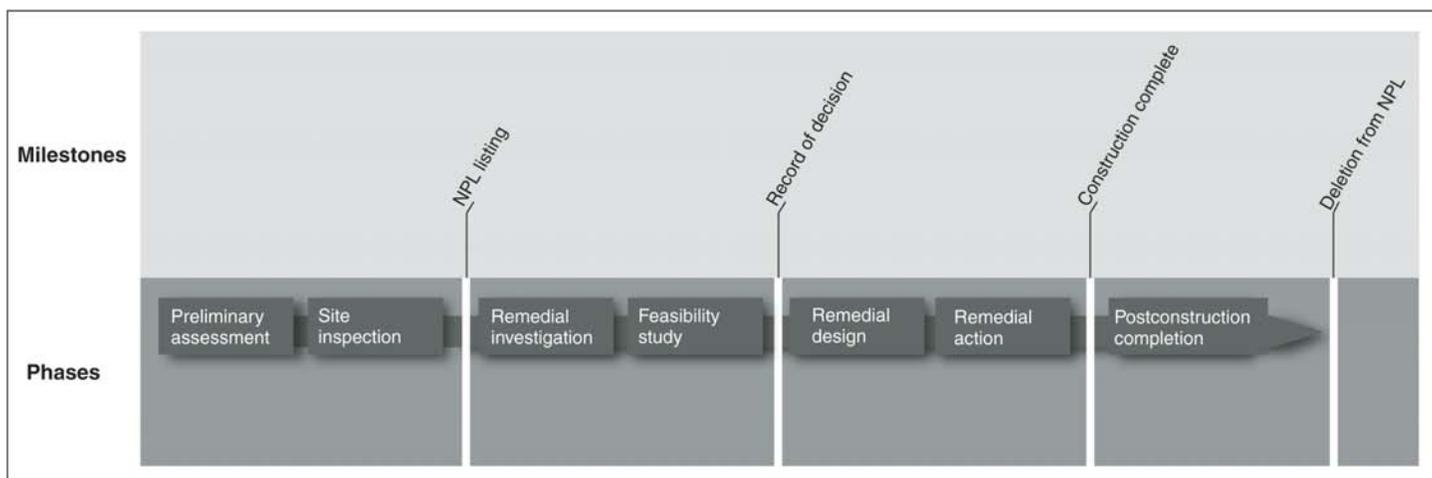
⁶The Hazard Ranking System is a numerically based screening system that uses available information—such as from initial, limited investigations—to assess the relative potential for releases of hazardous substances at sites to pose a threat to human health or the environment.

conditions and assess the risks to human health and the environment, among other actions and (2) a feasibility study to evaluate various options to address the problems identified through the remedial investigation. The culmination of these studies is a record of decision, which identifies the selected remedy for addressing the site's contamination and a cost estimate for implementing the remedy. EPA or the PRP may develop preliminary estimates of construction costs and, as the site moves from the study phase into the remedial action phase, a more accurate cost estimate may be developed. The method of implementation for the selected remedy is then developed during remedial design and implemented during the remedial action phase, when actual cleanup of the site occurs.

When all construction of the cleanup remedy at a site is finished, all immediate threats have been addressed, and all long-term threats are under control, EPA generally considers the site to be "construction complete." Sites where additional work is required after construction is completed then enter into the postconstruction phase, which includes actions such as operation and maintenance and conducting 5-year reviews.⁷ When EPA in consultation with the state determines that no further site response is appropriate, then EPA may delete the site from the NPL. Figure 2 illustrates the typical Superfund process for cleaning up a site.

⁷CERCLA regulations require reviews every 5 years of the integrity of the remedy at a site where hazardous substances remain on-site above levels that permit unrestricted use and unlimited exposure, even after deletion from the NPL.

Figure 2: Phases of the Typical Superfund Site Cleanup Process



Source: GAO analysis of EPA data.

Thus, EPA may incur a variety of costs in implementing the Superfund program at particular sites. EPA may spend funds to investigate and clean up sites, including short-term removals at any site, and long-term remedial actions at NPL sites. EPA may also incur costs for oversight associated with a site cleanup where a private party is conducting and funding the cleanup.

EPA's Enforcement Process for Superfund Site Cleanup

EPA may enter into agreements with PRPs for those parties to conduct cleanups, compel site cleanups by PRPs, or conduct cleanups itself and seek reimbursement for its costs from those parties. EPA's enforcement of environmental cleanup at Superfund sites begins with the identification of the PRPs, usually early in the cleanup process; continues throughout site cleanup; and often does not conclude until after the site is declared construction complete. EPA identifies PRPs by, among other actions, reviewing documentation related to the site; conducting interviews with government officials or other knowledgeable parties; performing historical research on the site; sampling soil or groundwater at the site; and requesting additional information from relevant parties. In addition to identifying PRPs, EPA attempts to obtain information on the type and amount of hazardous substances shipped to a site by each party and any financial constraints faced by the identified parties.

EPA may begin a cleanup process before it has identified PRPs. However, once it identifies PRPs, it typically seeks to reach a settlement

with them on their cleanup responsibilities and/or their payment for cleanup costs that EPA incurs. These negotiations generally may take place at any time throughout the site cleanup process. We have previously found that in reaching these settlements, EPA's and the PRPs' decisions are influenced by site-specific characteristics and other key considerations, such as the expected cost of site cleanup, the strength of EPA's evidence of PRP liability, and the number and type of other PRPs.⁸

The Trust Fund Established Under CERCLA

CERCLA established the Trust Fund to support Superfund program activities. EPA generally can use appropriated monies from the Trust Fund for short-term cleanups and for long-term cleanups of NPL sites. For example, EPA may elect to use such funds at sites for which the parties responsible for site contamination cannot be found or are unwilling or unable to clean up a site, to initiate work pending settlement, or in an emergency.⁹ Historically, the Trust Fund received revenue from four major sources: taxes on crude oil and certain chemicals, as well as an environmental tax assessed on corporations based on their taxable income;¹⁰ transfers via appropriations from the general fund of the Treasury; fines, penalties, and recoveries from PRPs; and interest earned on the balance of the Trust Fund. In 1995, the authority for the taxes expired and, as of November 2011, had not been reinstated. As of 2011, the Trust Fund's primary source of revenue is the transfer from the general fund of the Treasury. At the end of fiscal year 2010, the Trust Fund had total assets and liabilities of \$3.74 billion, with nearly 55 percent of that total in special accounts.

⁸GAO, *Superfund: Litigation Has Decreased and EPA Needs Better Information on Site Cleanup and Cost Issues to Estimate Future Program Funding Requirements*, [GAO-09-656](#) (Washington, D.C.: July 15, 2009).

⁹EPA may use Trust Fund monies on remedial actions at a site only if that site is listed on the NPL, but EPA can use Trust Fund monies for removal actions at any nonfederal site. This funding restriction does not apply to cleanup actions funded with special account funds.

¹⁰The Trust Fund may receive an occasional corporate tax payment from an amended tax return. However, the petroleum and chemical taxes expired on December 31, 1995, and the corporate environmental income tax expired for taxable years commencing after December 31, 1995.

EPA's Use of Special Accounts for Superfund Cleanup

Section 122(b)(3) of CERCLA allows EPA to retain and use funds received pursuant to an agreement with a PRP for purposes of carrying out an agreement. EPA retains those funds in subaccounts of the Trust Fund called "special accounts." As part of the settlement, those funds placed in a special account may be used for that specific site or may be transferred by EPA to the general portion of the Trust Fund. EPA's goal in establishing special accounts is to preserve the use of annual congressionally appropriated funds for cleanup at sites without a viable PRP. EPA regions are encouraged to create and use special accounts as an incentive to secure PRP cleanups and to fund EPA's cleanup when it has lead responsibility. EPA officials said that they believe that PRPs are more willing to settle when assured that their settlement money will generally be used at the site where they hold liability, rather than at another site.

According to EPA guidance, regions should strive to use model (standardized) settlement language to establish special accounts. The model language is intended to allow EPA flexibility in deciding for what specific response actions special account funds can be used and therefore when to use these funds. It allows EPA to use the funds for a response action at the site associated with the account, and EPA guidance states that special account funds are site-specific and are generally not available for EPA to use at other sites. The model language also retains EPA's authority to transfer funds from a special account to the general portion of the Trust Fund for future appropriation by Congress. EPA guidance notes that the language of the actual agreement governs EPA use of a particular special account's funds.

Generally, funds may be deposited in a special account regardless of whether the settling party is performing the work. According to EPA, the agency typically receives funds as a result of agreements entered when the PRPs are unable or unwilling to perform the response action, as is the case in a bankruptcy or an "ability to pay" settlement for parties facing financial difficulties. EPA may also determine that the hazardous substance contributed by a particular PRP was minimal in amount and toxicity compared with other substances at a site and therefore allow that party a *de minimis* settlement.¹¹ In addition, PRPs who are conducting

¹¹To qualify parties as *de minimis*, CERCLA authorizes EPA to use its judgment as to whether the hazardous substances contributed by parties are minimal in amount and toxicity in comparison with other substances at the site. CERCLA requires EPA to offer settlements to such parties.

some response actions may make payments to EPA to address past or future response actions. EPA's costs of overseeing the PRPs' implementation of the work are usually included in future response costs. These payments may be made for the estimated amount of oversight or on a periodic basis. However, under its guidance, EPA is only to establish a special account for a site where future cleanup work remains at a site. According to EPA officials, they prefer to establish one centralized special account per site because this generally allows them to more easily manage funds for a site, but certain situations may require more than one account for a site. For example, multiple special accounts for one site may be established for amounts that EPA will provide or disburse to PRPs who agree to perform the response work (serving as a settlement incentive for the PRPs to perform the work), or for each separate operable unit or different response action at a site.¹²

Once settlement proceeds are deposited in a special account, EPA regional staff enter plans for the use of those funds into CERCLIS. According to EPA guidance, regional staff, such as the sites' regional remedial project managers, are to evaluate the planned uses of special account funds on an ongoing basis, as warranted by site activity, to ensure that these resources are used efficiently and effectively and make corresponding changes to their planned use as appropriate. The regional staff are to consider both the short- and long-term plans for the site; thus they often plan several fiscal years in advance. According to the guidance, estimates of EPA's future response costs at a site should be based on the best information available at a given point in time and the best professional judgment of regional staff. Various EPA groups, including regional counsel, regional program management, regional finance, and headquarters staff are all involved in this planning process.

In general, according to EPA guidance, special account funds should be used prior to annual congressional appropriations. This guidance establishes priorities for the use of special account funds, referred to as the General Hierarchy of Special Account Use. According to this hierarchy, funds in special accounts should be

¹²An operable unit commonly refers to a geographical area, contaminated medium, or chronological phase of a cleanup. The division of a site into multiple operable units serves to better inform stakeholders of the manner in which EPA expects to manage the cleanup of a site.

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- used to facilitate settlement with PRPs for response actions;
 - used to fund EPA's costs for response actions;
 - reclassified to reimburse previous EPA site expenditures made from annual congressional appropriations; reclassification is available when an EPA region reasonably estimates that the special account contains more funds than are needed to address all known and potential future work at the site.¹³ Funds made available from reclassification may be used by EPA at another Superfund site for the same category of expenditure as the costs being reimbursed; and
 - transferred to the general portion of the Trust Fund, when reclassification has already been considered and is not appropriate, and the special account balance exceeds the estimated known and potential future cleanup costs at that site.¹⁴ In contrast to reclassified funds, transferred funds require a future congressional appropriation to make the funds available for use by EPA.

Typically, EPA closes special accounts when (1) all site work has been completed; (2) no funds are left in the account, and no future deposits are anticipated; or (3) EPA does not anticipate incurring any additional costs at those sites. To close an account, the remaining funds in the special account, if any, are then transferred to the general portion of the Trust Fund to increase the balance available for future appropriation for cleanups.

EPA IG's Recommendations for Better Management of Special Accounts

In March 2009, EPA's IG reported on EPA's management of special accounts, finding that, if EPA had had better management controls in place at that time, more funds would have been available for Superfund cleanup. According to the 2009 IG report, EPA had a decentralized management control structure for overseeing the use of special accounts. Management oversight was fragmented—no single office at headquarters

¹³The reclassification of special account funds is intended to put EPA in the same position it would have been in if the PRP settlement proceeds had been received prior to the expenditure of Superfund appropriation resources at that site.

¹⁴Generally funds that are not used for future response work at a site are reclassified or transferred to the general portion of the Trust Fund, rather than returned to PRPs, unless it is specifically written into the settlement that they should be returned to PRPs.

or the regions was responsible for managing, overseeing, and coordinating special accounts work. In addition, the IG found that EPA headquarters did not have a structured approach for following up on regional plans to use special account funds to ensure that they were being managed correctly and that EPA lacked detailed guidance and policy on the proper use, management, and monitoring of special accounts funds. As a result, among other things, the IG recommended that EPA designate a central management official for special accounts with responsibility for developing an action plan to ensure that management accountability and related issues regarding special accounts were addressed. The IG stated that this action plan should include, among other things, (1) a process for ensuring completed CERCLIS reports with accurate special accounts data to manage the program and improve performance; (2) an annual planning process—including a determination that regional special account funds will be used consistent with the General Hierarchy—to aid in monitoring special accounts; (3) development of headquarters and regional controls that include follow-up to make sure planned or requested uses (e.g., reclassifications and transfers to the Trust Fund of special account funds) were conducted; and (4) establishment of guidance and policy that addresses the proper application and amount of special account funds that should be reserved for future use. In addition, the IG recommended that EPA regularly analyze the “oldest accounts” for opportunities to better use special account funds.

About Half of the \$3.7 Billion that EPA Has Collected in Special Accounts Is Available for Future Superfund Cleanup

From fiscal year 1990 through October 2010, EPA collected from PRPs over \$3.7 billion that it placed in 1,023 special accounts.¹⁵ Nearly half of these funds—\$1.8 billion—are still available to be obligated for future Superfund cleanup; and the remaining funds—\$1.9 billion—have already been obligated, but not all of these obligated funds have been disbursed.¹⁶ In addition, for fiscal years 1990 through 2010, all EPA regions reclassified about \$131 million from 96 special accounts to pay for previous EPA site expenditures, transferred about \$14 million from 39 accounts to the general portion of the Trust Fund, and closed 76 accounts.

Status of Unobligated Funds in EPA Special Accounts

As of October 2010, of the \$3.7 billion that it placed in 1,023 special accounts, EPA held nearly \$1.8 billion in unobligated funds in 947 open accounts—accounts that have funds available for use in future cleanup responses at specific sites—at 769 Superfund sites;¹⁷ 503 of these sites are currently on the NPL. The number of special accounts increased significantly from 2001 through 2010: 854 of the 1,023 accounts, or 83 percent, were established during this period. Table 1 shows these accounts by region, with the number of open accounts, sites, NPL designation, and unobligated funds.

¹⁵The \$3.7 billion includes approximately \$378 million in accrued interest that has been earned on all special accounts since the inception of the program. Interest begins to accrue from the date that the special account is established and is calculated each month based on the average daily balance within each special account. Interest rate for special accounts is approximately the same as the Trust Fund interest rate, which was 2.24 percent in fiscal year 2010.

¹⁶EPA considers special account funds that have been reclassified to be disbursed. Transfers to the general portion of the Trust Fund represent a reduction in the amount of receipts and interest earned that are available for obligation.

¹⁷Ninety-nine Superfund sites have multiple special accounts.

Table 1: Open Superfund Special Accounts and Sites, Including NPL Sites, by EPA Region, as of October 2010

Dollars in millions

EPA region	Number of open special accounts	Percentage of special accounts by region	Number of sites with special accounts ^a	Number of sites with special accounts on the NPL	Percentage of sites with special accounts on the NPL	Total unobligated funds in special accounts
1	66	7.0%	62	55	88.7%	\$121
2	94	9.9%	93	80	86.0%	192
3	116	12.2%	103	86	83.5%	75
4	68	7.2%	68	35	51.5%	61
5	212	22.4%	180	93	51.7%	195
6	63	6.7%	45	22	48.9%	100
7	68	7.2%	63	28	44.4%	319
8	72	7.6%	55	30	54.5%	262
9	93	9.8%	62	51	82.3%	330
10	95	10.0%	38	23	60.5%	140
Total	947	100%	769	503	65.4%	\$1,795

Source: GAO analysis of EPA data.

^aSites may have more than one special account.

The majority of available special account funds are concentrated in a small number of special accounts. As of October 2010, 33 open accounts, or 3 percent, had a total of \$1 billion available, or 61 percent of the total amount available in special accounts. Table 2 below shows the number of open accounts that have an available balance of less than \$500,000, from \$500,000 to \$10 million, and greater than \$10 million.

Table 2: Open Superfund Special Accounts Grouped in Categories by Unobligated Balance, as of October 2010

Dollars in millions

Unobligated balance	Open accounts		Unobligated balance	
	Number	Percentage	Sum	Percentage
Greater than \$10 million	33	3%	\$1,102	61
From \$500K to \$10 million	292	31%	\$605	34
Less than \$500K	622	66%	\$88	5
Total	947	100%	\$1,795	100

Source: EPA.

As of October 2010, EPA had plans to obligate 99.8 percent of the \$1.8 billion available in special accounts, according to our analysis of EPA CERCLIS data. EPA tracks plans for unobligated special account funds in

CERCLIS by three categories: (1) planned obligations; (2) additional reserved uses (estimated costs) not captured as planned obligations; and (3) amounts for work parties (e.g., generally PRPs who have agreed to conduct response work under a settlement agreement) that are included in settlements but have not yet been distributed to them. Specifically:

- *Planned obligations* are costs anticipated by EPA to be incurred in association with specific site response actions. Planned obligations are grouped into five categories: removal and removal support, pipeline operations,¹⁸ remedial action, enforcement, and federal facilities.¹⁹
- *Additional reserved uses* are regional staff's estimated costs for possible or long-term future actions. This category includes 14 different types of potential uses, such as 5-year reviews.²⁰ Reclassifications and transfers to the Trust Fund are also included in this category, but EPA prefers to break out this information separately for the purpose of evaluating the data in management reviews.
- *Amounts for work parties* refers to funds promised in settlements to parties performing the cleanup work at the site; these are amounts that were used as a settlement incentive in negotiations with potential work parties.

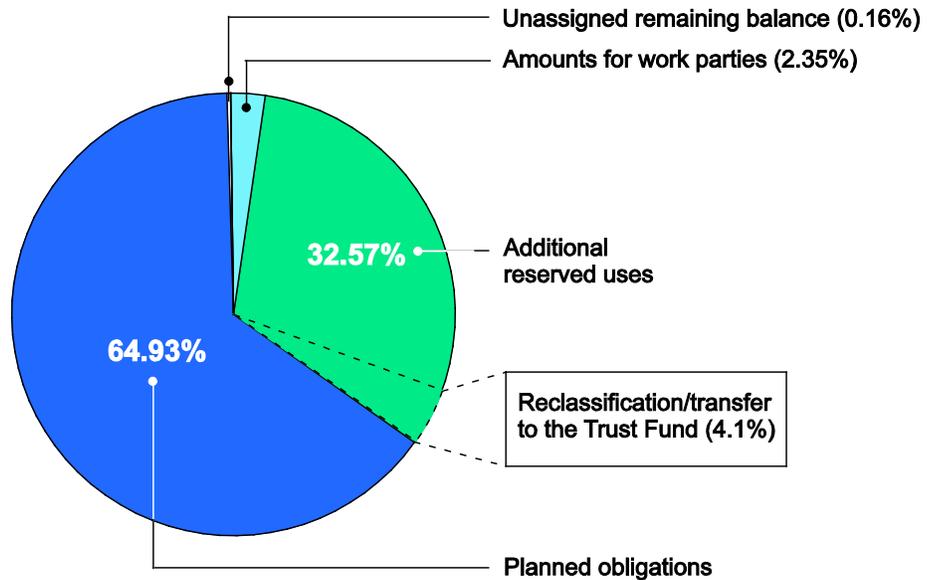
Figure 3 shows, as of October 2010, how EPA planned to use unobligated funds in special accounts.

¹⁸According to EPA documentation, the category "pipeline operations" contains all other planned special account obligations that fall under Superfund's remedial program, including investigations, oversight, etc., and the category "remedial action" includes all planned special account obligations for removal, remedial action, long-term response action, and one 5-year review under Superfund's remedial program.

¹⁹These five categories in CERCLIS are used by EPA to categorize funding for the purpose of the program's budget structure process.

²⁰Only one 5-year review can be entered as a planned obligation in CERCLIS. This category may be used to enter estimates for subsequent 5-year reviews, also referred to as outyear 5-year reviews.

Figure 3: EPA's National Planned Uses for \$1.8 billion in Special Account Funds, Beginning Fiscal Year 2011



Source: GAO analysis of EPA data.

Note: The total percentage exceeds 100 percent due to the rounding of the values.

Planned obligations were made for 64.9 percent—\$1.16 billion—of the \$1.8 billion in unobligated funds at the beginning of fiscal year 2011, according to our analysis of EPA data. Funds designated for remedial action and pipeline operations made up the largest portions of the \$1.16 billion. Approximately \$671 million, or 58 percent of these funds, were planned for remedial action, and \$418 million, or 36 percent of these funds, were planned for pipeline operations.

According to EPA headquarters officials, in some instances, funds for anticipated long-duration Superfund cleanup actions may be planned as much as 40 or 50 years in advance, when there are enough funds in an account to plan that far in advance. Regional data indicate that, of the available special account resources that have planned obligations, more than half are planned to be obligated from fiscal years 2011 through 2013 and, according to EPA officials, 95 percent will be obligated by fiscal year 2022. However, EPA regional officials told us that the special account planned obligations are estimates rather than commitments. According to headquarters and regional officials, planned funds may not be used for their original planned use or may not be used in the originally designated fiscal year for a number of reasons, such as unforeseen issues that arise

with Superfund cleanups, especially during the remedial investigation and remedial actions; EPA regional staff responding to national and regional emergencies; or site schedule changes. EPA regional staff must either delete or move forward plans to use special account funds into a subsequent fiscal year when special account obligations for a prior fiscal year are not obligated as previously planned. Table 3 shows CERCLIS information on the number of special accounts and associated obligations planned by type of EPA cleanup activity, enforcement, and federal facilities for fiscal years 2011 through 2070.

Table 3: Special Accounts Obligations Planned for Fiscal Years 2011-2070, by Type of Cleanup Activity, Enforcement, and Federal Facilities

Dollars in millions

Fiscal year	Removal and removal support		Pipeline operations		Remedial action		Enforcement		Federal facilities		Total
	Number of accounts	Value	Number of accounts	Value	Number of accounts	Value	Number of accounts	Value	Number of accounts	Value	
2011-2013	44	\$62.80	398	\$208.37	173	\$437.34	12	\$5.47	14	\$2.65	\$716.63
2014-2016	6	3.22	151	82.95	78	205.29	2	0.15	1	0.13	\$291.74
2017-2019	1	0.23	69	38.94	13	26.93	1	0.05	0	0	\$66.15
2020-2022	1	0.15	42	34.14	6	1.76	0	0	0	0	\$36.04
2023-2025	0	0	29	15.66	0	0	0	0	0	0	\$15.66
2026-2070	0	0	25	38.14	0	0	0	0	0	0	\$38.14
Total	52	\$66.40	714	\$418.19^a	270	\$671.32	15	\$5.67	15	\$2.78	\$1,164.36

Source: GAO analysis of EPA data.

^aThe total in this column does not add up due to the rounding of the values.

Additional reserved uses made up 32.6 percent—or \$585 million—the second largest portion of the national planned uses for all special account funds in fiscal year 2011. According to EPA officials, they have not yet entered these estimates as specific planned obligations in CERCLIS because the planning of these funds is more challenging to predict or in some cases, there are limitations for how obligations can be entered into CERCLIS. For example, only one 5-year review can be entered as a planned obligation in CERCLIS as a site financial transaction. The

“outyear five year review” field may be used to enter estimates for subsequent 5-year reviews. Other funds under this category represent such items as potential EPA work takeover from a PRP where the PRP does not have adequate or liquid financial assurance and anticipated costs prior to determination of the final remedy for cleanup. This category also includes special account funds that are planned for reclassification or transfer to the Trust Fund, which we discuss in greater detail later.

Amounts for work parties were approximately \$42.2 million—or about 2.4 percent of the \$1.8 billion in unobligated special account funds—as promised in settlements, as of the beginning of fiscal year 2011, according to EPA regions’ planning documents. These funds will be disbursed to work parties as they submit claims for reimbursement to EPA, in accordance with milestones established in the settlement documents.

The unassigned remaining balance was approximately 0.2 percent of special account funds, or approximately \$3 million, as of October 2010. According to the national special accounts coordinator, EPA headquarters generally permits a small amount of the total balance of unobligated special account funds to remain unplanned. However, according to an EPA official, headquarters staff question regions when the unassigned remaining balance of a special account is generally more than 10 percent of its available balance, more than 10 percent of the total available funds for the region, or more than \$100,000 per account.

Status of Obligated Special Account Funds

As of October 2010, of the total accumulated receipts of \$3.7 billion in 1,023 special accounts, about \$1.9 billion had been obligated for site specific response work, according to our analysis of EPA data.²¹ Of this total, EPA had disbursed approximately \$1.6 billion for Superfund cleanup expenses; the remaining \$247 million in obligations had not yet been disbursed (i.e., unliquidated obligations).

Furthermore, EPA regions have not disbursed any funds from 240 of the 947 open special accounts with a total of \$228 million available in these accounts. Twenty-five of these 240 accounts include unliquidated

²¹Obligations in this report refer to funds that have been disbursed, as well as unliquidated obligations, which are obligations incurred but not yet paid for.

obligations. According to officials from regions that had large numbers of special accounts with no disbursements, there are numerous reasons for not having disbursed any funds from these accounts for site cleanup. For example, one regional official stated that funds are often deposited in special accounts early in the Superfund site cleanup process, sometimes years before cleanup at the site actually begins. Also, regions often retain funds in special accounts for contingency purposes if cleanup plans change (e.g., potential EPA work takeover at a later date). Another regional official stated that numerous special accounts in the region had recently received sizeable deposits from a large bankruptcy settlement, and the funds have been planned for but not obligated as of the time of our review.

Status of Reclassification, Transfer of Funds, and Closure of Special Accounts

Historically, EPA has conducted few reclassifications or transfers of funds to the general portion of the Trust Fund. Recently, however, EPA regions have begun to reclassify more funds from open special accounts. While all EPA regions reclassified about \$131 million from 96 special accounts during the 20-year period from fiscal years 1990 through 2010, about \$111 million, or about 85 percent, of this amount was reclassified during the last 3 years of this period. In addition, since fiscal year 1990, EPA has transferred about \$14 million from 39 special accounts to the Trust Fund.

According to EPA guidance, for reclassification and transfer, regions should provide planning estimates for the current fiscal year, as well as the two subsequent fiscal years. According to EPA data, for fiscal years 2011 through 2013, about 4.1 percent—\$74 million—of the total \$1.8 billion in unobligated special account funds were designated for reclassification or transfer to the Trust Fund. Of the \$74 million, EPA regions plan to reclassify about \$61 million, or about 82 percent, from special accounts and to transfer the remaining \$13 million. EPA's plans to reclassify or transfer funds may change as a result of changing site conditions throughout the Superfund cleanup process. For example, in fiscal year 2010, EPA planned to reclassify \$43 million and transfer about \$4 million; however, at the end of the fiscal year, EPA actually had reclassified only \$26 million and transferred about \$3 million. Tables 4 and 5 show, by region, the number and value of special accounts planned for reclassification and transfer for fiscal years 2011 to 2013, as of October 2010.

Table 4: Special Account Funds Planned for Reclassification, Fiscal Years 2011-2013, as of October 2010

Dollars in millions

Region	Fiscal year 2011		Fiscal year 2012		Fiscal year 2013	
	Number of accounts	Reclassification amount	Number of accounts	Reclassification amount	Number of accounts	Reclassification amount
1	3	\$2.5	0	\$0	0	\$0
2	5	3.8	4	1.9	0	0
3	1	0.5	0	0	0	0
4	14	8.1	4	2.3	1	1.1
5	7	7.8	1	1.9	0	0
6	5	6.4	0	0	0	0
7	7	1.1	4	1.0	1	0.2
8	0	0	0	0	0	0
9	3	12.8	0	0	0	0
10	4	1.6	4	7.8	0	0
Total	49	\$44.6	17	\$14.9	2	\$1.3

Source: GAO analysis of EPA data.

Table 5: Special Account Funds Planned for Transfer to the Trust Fund, Fiscal Years 2011-2013, as of October 2010

Dollars in millions

Region	Fiscal year 2011		Fiscal year 2012		Fiscal year 2013	
	Number of accounts	Transfer amount	Number of accounts	Transfer amount	Number of accounts	Transfer amount
1	0	\$0	0	\$0	0	\$0
2	4	0.6	2	2.3	0	0
3	6	0.9	0	0	0	0
4	2	0.9	0	0	0	0
5	18	6.0	1	0.05	0	0
6	4	0.8	0	0	0	0
7	2	0.5	0	0	0	0
8	1	0.2	2	0.001	0	0
9	1	0.5	0	0	0	0
10	1	0.005	1	0.01	0	0
Total	39	\$10.2^a	6	\$2.4	0	0

Source: GAO analysis of EPA data.

^aThe total in this column does not add up due to the rounding of the values.

EPA guidance states that reclassifications and transfers to the Trust Fund should not take place until it can be reasonably estimated that the special account contains more funds than are needed for remaining response actions at the site. Therefore, according to EPA officials, it is generally easier for the regions to determine if special account funds can be reclassified or transferred once response actions at a site are substantially complete. EPA officials said that they consider “Construction Complete,” “NPL Delete,” and “Post Construction” to be the three phases in the Superfund cleanup process when a site most likely can be considered substantially complete and, therefore, the funds in a special account may be considered for reclassification or transferred to the Trust Fund. As of October 2010, the cleanup activities at 297 of the 769 Superfund sites with open accounts were considered substantially complete, according to our analysis of EPA data, and therefore more likely to have funds eligible to be reclassified or transferred than sites in the earlier stages of the cleanup process. Table 6 presents the number of Superfund sites with special accounts in each phase or milestone of the cleanup process, from the remedial investigation/feasibility study to deletion from the NPL, as of October 2010.

Table 6: Number of Sites with Special Accounts in Each Phase or Milestone of the Superfund Cleanup Process, as of October 2010

Cleanup phase or milestone		Number of sites with special accounts ^b
Remedial investigation/Feasibility study	Remedial assessment not begun	40
	Study under way	169
	Study complete	11
Record of decision ^a	Remedy selected	22
Remedial design	Design under way	52
	Design complete	2
Remedial action	Construction under way	45
	Remedial action complete	9
Miscellaneous (other responses, such as the removal process)		122
Construction complete ^a		2
Postconstruction		263
Deletion from NPL ^a		32
Total sites		769

Source: GAO analysis of EPA data.

^aThese steps are considered “milestones” in the Superfund cleanup process.

^bThe site designations that are noted here are based on the action at a site associated with a special account that is least advanced in the Superfund cleanup process. Other actions may be taking place at these sites that are more advanced in the Superfund cleanup process.

EPA requires special accounts to be closed when (1) all site work has been completed, (2) no funds are left in the account and no future deposits are anticipated, or (3) EPA does not anticipate incurring any additional costs at those sites. As of October 2010, EPA had closed 76 special accounts since the beginning of the program; these accounts were open an average of 7 years. According to our analysis of EPA data, EPA closed 9 special accounts from fiscal years 2000 through 2005 and 67 accounts from fiscal years 2006 through 2010, including 33 in fiscal year 2010. According to EPA officials, the steady increase in closures has occurred because the regions are improving their management of special accounts and closing accounts where no funds remain or funds are no longer needed for future work.

EPA Has Implemented Processes and Policies in Recent Years to Better Monitor and Manage Superfund Special Accounts

In response to the IG’s findings and recommendations,²² as well as EPA officials’ own recognition that the agency needed to provide better oversight of the special accounts process, EPA has implemented the following processes and policies in the last few years to better monitor and manage special accounts: (1) processes to better plan the use of special account funds, (2) increased oversight of special accounts by designating a national special accounts coordinator, and a Special Accounts Senior Management Committee, and (3) strategies and guidance on how to plan for using and monitoring special accounts.

EPA Has Implemented Processes to Better Plan for Use of Funds in Special Accounts

To facilitate regional management and headquarters planning and review of special accounts, in 2008, EPA established a process to better track planned uses for special account funds. That is, it established a section in CERCLIS—referred to as the Special Account Management Screen (or planning screen)—that enables EPA regions to see and enter special account planning data into specific data fields and create reports so that

²²According to EPA, it has closed out all recommendations from the two IG reports. The IG has not conducted a follow-on review to the 2009 report to determine the sufficiency of all of EPA’s responses.

both EPA headquarters and regional officials can monitor the special account balances against planned obligations for ongoing and future site-specific response activities. According to EPA officials, reports based on data entered into fields on this screen have allowed both EPA headquarters and regional staff to review the data to assure that, among other things, the agency maximizes opportunities to use, reclassify, or transfer these resources to the general portion of the Trust Fund over time.

In the first few years of using this new planning screen, regional staff noticed that some funds did not easily fit into the specified categories in the screen, and they had to place the funds under other catchall fields, according to EPA headquarters officials. As a result, in December 2010, EPA added four new fields under the reserved use section and combined two categories into one. These changes are intended to allow EPA headquarters staff to better track the regions' funding plans and to comply with guidance issued in September 2010 clarifying how special account funds are to be planned and used. For example, EPA headquarters created a new field for funds reserved for a potential EPA takeover of the work if one or more PRPs who are performing the site cleanup work become insolvent; in such cases, EPA might have to fund necessary work with special account funds. According to officials we spoke with in one EPA region, these changes have helped reduce the number of questions and concerns from headquarters during its reviews of regions' plans to allocate funds.

EPA Has Increased Oversight for Special Accounts

Before the IG's 2009 report, EPA had recognized that it needed to better oversee the regions' management of special accounts, according to an EPA headquarters official. In 2008, an EPA staff person in the Office of Superfund Remediation and Technology Innovation—with assistance from staff from other offices such as the Office of Site Remediation Enforcement and Office of the Chief Financial Officer—was permanently assigned to coordinate the management of special accounts with the regions. This headquarters staff person—the national special accounts coordinator—conducts annual and midyear reviews and holds discussions with regional staff to evaluate regions' plans to allocate special account funds, among other things. Specifically, every August, in preparation for the annual review of these funds, the coordinator analyzes planning data on all open special accounts using monitoring reports developed from CERCLIS data to ensure that regions are entering quality data into CERCLIS, complying with special account guidance, and effectively managing special accounts.

The coordinator told us that she focuses on particular details of a special account in the annual review that may indicate a potential for special account management problems. In particular, the coordinator examines accounts that (1) disbursed no funds, and (2) have a large amount of funds remaining although construction is complete or the site has been deleted from the NPL, and (3) those accounts that are 10 years old or more. In addition, the coordinator stated that she looks closely at certain types of special accounts on a regular basis, such as the following:

- *Accounts with balances over \$10 million.* The coordinator examines these accounts—which make up 61 percent of available special account balances—to see the types of actions that have occurred. For example, the coordinator told us that she checks whether planned funding for prior fiscal years was actually obligated and disbursed as planned.²³ Specifically, she looks for any indications that a region might be continually shifting the same planned obligated funds from one fiscal year to the next and, if so, investigates the reasons for this shift.
- *Accounts that had planned reclassifications, transfers to the Trust Fund, or planned closures.* The EPA coordinator told us that she regularly examines whether these actions have occurred. For example, according to EPA data, in fiscal year 2010, regions planned to reclassify \$43.1 million from 75 accounts at the beginning of the year; however, the coordinator found that regions had actually reclassified \$26.2 million from 41 accounts by the end of that fiscal year. For those 34 accounts where reclassification was not completed, 20 accounts had their planned reclassifications moved to future fiscal years, 10 accounts were identified as needing funds for further work at the site, and 4 had their planned reclassified funds transferred instead to the Trust Fund.

In addition, according to the coordinator, beginning in fiscal year 2011, EPA focused on reviewing those special accounts with available balances less than \$10,000 to help ensure that funds are used as quickly as

²³According to EPA officials, neither headquarters nor the regions systematically tracks all special accounts to see whether planned funds in a prior fiscal year were actually obligated and disbursed as planned. Headquarters and the regions see these planning estimates as targets rather than commitments. Therefore, to make the most efficient use of EPA resources in overseeing special accounts, the coordinator focuses more often on how accounts with larger planned amounts are being managed by the regions, as well as accounts that have available funds to reclassify or transfer to the Trust Fund.

possible so that the accounts can be closed. According to the coordinator, this review allows the regions to focus their workload efforts on managing the larger special accounts rather than the many accounts with relatively few funds.

According to the coordinator, during this annual review, she may pose questions regarding the regions' planning estimates and suggest certain actions to ensure better management of specific special accounts. For example, the coordinator might suggest that the regions (1) use the funds in a special account as an incentive for future settlements with PRPs, (2) reclassify or transfer to the Trust Fund unneeded funds and close the account when a site cleanup is completed or near completion, (3) correct and update the account (such as entering funds in the proper planning category), (4) use special account funds before using appropriated funds, or (5) move previously planned obligated funds that have not yet been obligated in a previous fiscal year to a future fiscal year. For example, during the special account fiscal year 2011 annual review conducted in 2010, the coordinator asked questions regarding the regions' planning estimates on 285 special accounts. Based on our analysis of these planning data, we identified 65 questions or suggestions related to whether there was potential to reclassify or transfer to the Trust Fund some or all account funds or close an existing account. The remaining questions or suggestions identified a variety of subjects, including whether the planned funding was put in the wrong category on the special accounts planning screen in CERCLIS, and whether special account funds could be used as an incentive for the PRP to do the work.

During the annual review, regional staff agree to make changes or adequately explain the reasons why the coordinator's suggestion should not be taken at that time. According to EPA regional officials we spoke with, all of the coordinator's questions during the fiscal year 2011 annual review were addressed before the next midyear planning sessions conducted in the spring of 2011. However, according to a regional official and the coordinator, a question from a previous planning session may be asked again in subsequent planning sessions if it was not entirely or sufficiently addressed. In some cases, the coordinator stated she wanted to obtain more detailed information from the region to ensure that funds were planned for use in the most effective and efficient way possible. In other cases, while funds were planned in accordance with guidance, the regional officials and the coordinator had a difference of opinion on the best planned use of funds.

To examine this process in more detail, we sampled 20 accounts from EPA headquarters' 2010 annual planning review of 285 accounts about which the coordinator had questions. For all of these accounts, the regions addressed all the coordinator's questions or took the recommended action requested or suggested by the coordinator. For example, the coordinator questioned \$989,000 in special account funds that were placed in the "Other" field without a detailed explanation on when the determination for use of these funds would be made. As a result of discussions with EPA headquarters and a change to the planning screen, these funds were moved to a new field created in December 2010—"Protectiveness Contingencies." According to EPA documentation, this field should be used when current site information indicates there is reasonable potential that a remedy will not be protective in the future. For the account in question, EPA regional officials determined that available special account funds for the site would still be needed to protect nearby residences from the effects of a hazardous chemical contamination—Trichloroethylene (TCE).²⁴ The remedy chosen for this TCE contamination in the groundwater—an underground drainage system—had not resulted in lower contamination levels, and EPA had found vapor intrusion in the crawl spaces of houses located at the site. EPA determined that it would need the special account funds to assess whether new migration systems need to be installed to prevent inhalation of TCE from the crawl spaces.

According to the coordinator, once the planning discussions take place, the regions are expected to make any corrections to planned special account funds in CERCLIS. The coordinator then reviews the data again and uses this information to establish a baseline for fiscal year planning. In addition, the coordinator provides an annual work planning review report to EPA management in December. In March of the following year, the coordinator conducts midyear reviews to follow up on regional issues and to monitor planned actions previously identified.

EPA headquarters holds bimonthly national conference calls with regional officials to discuss any special accounts issues that have arisen and to discuss possible changes to the special accounts process to make it

²⁴TCE, a degreasing agent in metal cleaning that has been used widely in Department of Defense industrial and maintenance processes, has been documented at low exposure levels to cause headaches and difficulty concentrating. High-level exposure may cause dizziness, headaches, nausea, unconsciousness, cancer, and possibly death.

more efficient. Several regional officials we spoke with stated that, between the conference calls, and other events, such as the annual Superfund Special Accounts National Meeting and Cost Recovery Training Conference,²⁵ staff are provided with the information they need to effectively manage special accounts.

In 2009, in response to the IG's recommendation that a central management official in headquarters for special accounts be established to ensure management accountability, EPA established a Special Accounts Senior Management Committee. Unlike the coordinator, who has daily responsibility for special accounts, the committee has broader responsibilities. It meets semiannually to provide overall management oversight and monitor the status of special accounts. The IG had recommended that a single office in headquarters be responsible for the management of special accounts, but EPA officials told us that the agency did not think this was a workable arrangement because the management of special accounts requires the involvement of, and coordination among, several EPA offices, including the regional offices. The committee consists of directors from EPA headquarters offices involved in the special accounts process, including the Office of Superfund Remediation and Technology Innovation, the Office of Site Remediation Enforcement, and the Office of the Chief Financial Officer, as well as directors of relevant Superfund divisions from the regions. Regional representation is rotated among regions every 2 years. A committee charter lists the responsibilities of each office in managing special accounts.

According to several EPA regional officials we spoke with who have responsibilities for special accounts, the level of coordination and transparency in managing special accounts between headquarters and the regions has improved over the last few years. For example, one regional official stated that the high level of coordination is evident from headquarters' review of regional planning data and related meetings to discuss potential issues with specific special accounts. Another regional official stated that headquarters has been very responsive, sharing information and obtaining policy viewpoints from the region, and implementing ways to streamline and improve the process.

²⁵At the time of our discussions with the regions, EPA held the Superfund Special Accounts National Meeting and Cost Recovery Training Conference annually. Recently, EPA has made the decision to hold this meeting bi-annually instead of annually.

EPA Has Issued Strategies and Guidance on Managing Special Accounts

EPA has issued new strategy and guidance documents to help manage special accounts in response to the IG's recommendations and EPA headquarters' own recognition that the agency needed to provide a more nationally consistent approach to managing and monitoring special accounts. Specifically, EPA established the Superfund Special Accounts Management Strategy in 2009. This strategy sets forth the agency's plan to improve the use, management, and monitoring of special accounts to help support Superfund site cleanups. According to EPA documentation, this strategy serves as a road map for EPA regional and headquarters personnel who are responsible for overseeing and managing special accounts. The Special Accounts Senior Management Committee is responsible for implementing this strategy. The strategy focuses on four main areas: (1) coordination and transparency, such as intraagency coordination between the EPA offices that are responsible for managing special accounts; (2) special account use and planning efforts, such as effective regional planning and use of the CERCLIS special account planning screen; (3) monitoring special accounts, such as annual regional work planning and midyear reviews; and (4) regional support, guidance, and training.

EPA has also issued guidance on the (1) planning, use, and monitoring of special account funds and (2) reclassifying special account funds, transferring funds to the Trust Fund, and closing special accounts.

Planning, use, and monitoring of special account funds. EPA's special account guidance, issued in 2010, updated and expanded previous EPA guidance that was originally published in 2001 and 2002. This newer guidance provides specific information on the proper use and planning of special account funds throughout the cleanup process. For example, EPA generally expects that planning for the use of special account funds occurs within 3 months after establishing a special account, and planning should be updated on a regular basis during the year. According to EPA regional officials we spoke with, they try to plan for the use of special account funds as soon as possible. However, according to some regional officials, various circumstances can affect whether planning can occur within 3 months. For example, they noted, large special accounts usually are associated with large, complex cleanup sites and therefore it is likely to take longer to plan how funds will be used. At the same time, officials said, these accounts are often a priority because of the hazards involved. The workload required to plan and manage accounts with large balances may result in less time available to plan for accounts with smaller balances.

EPA also issued a detailed Monitoring Plan for Special Account Planning Data in 2009, which EPA updated in November 2010. This plan describes the process that EPA headquarters and the regions should follow to monitor special account planning data, including the scheduled times when middle of fiscal year and end of fiscal year final planning data should be reviewed and discussed with the regions, made final, and reported to the Special Accounts Senior Management Committee.

Reclassifying special account funds, transferring funds to the Trust Fund, and closing special accounts. EPA headquarters issued detailed guidance on the reclassification of special account funds in 2009, including when EPA regions should consider doing a reclassification and a step-by-step description of the reclassification process the regions should follow. At the same time, it also issued a model memorandum for transferring funds from a special account to the Trust Fund and closing out a special account. In this guidance and memorandum, EPA states that regions must notify headquarters when they plan to reclassify funds, transfer funds to the Trust Fund, or close out an account. The regions must submit a draft memorandum to headquarters staff in the Office of Site Remediation Enforcement and the Office of Superfund Remediation and Technology Innovation to discuss any potential issues with the action prior to proceeding with the action. However, regional officials we spoke with stated that the process for reclassifying funds has been complex and that the requirements for conducting a reclassification were resource intensive and time consuming. For example, regions had to submit a memorandum with detailed information on the special account—no matter how small the amount of funds to be reclassified. As a result, in April 2011, EPA headquarters issued revised model notifications to streamline the process and accelerate the review process for reclassifications of funds, transfer of funds to the Trust Fund, and closing of a special account. According to EPA officials, the most significant change eliminates the requirement for a formal memorandum for those transactions that involve \$200,000 or less. For those transactions, EPA regions now only need to send an e-mail to headquarters staff informing them of the intended action and provide the appropriate assurances in accordance with guidance (e.g., if an account is to be closed, the region does not anticipate any future deposits). For transactions involving \$200,000 or more, regions still need to send formal notification memoranda to headquarters. However, these actions can now be included in the same memorandum, rather than separate memorandums if (1) a transfer of funds to the Trust Fund or closeout occurs at the same time or immediately following a reclassification or (2) a closeout occurs at

the same time or immediately following a transfer of funds to the Trust Fund

Several regional officials we spoke with stated that, overall the increased guidance has been helpful, and that EPA headquarters has done a thorough job of establishing any needed special accounts policy and guidance documents, addressing all major aspects and issues relating to the management of special accounts. In addition, officials from EPA regions 3, 5, and 9 stated that their regions have added management tools specific to their regions to enhance those available from headquarters, including a special accounts regional database, intranet site page, and guidance specific to their regions, respectively. An EPA headquarters official stated that an increased emphasis has been made in the last few years in headquarters to better manage the regions' special account process, particularly the "back end" of the process involving special account reclassifications, transfers to the Trust Fund, and account closures. However, EPA headquarters officials told us that the agency has recognized it may need to be more involved in the "front end" of the special accounts process, when regions are deciding whether to establish a special account. EPA headquarters is evaluating whether it is efficient for the regions to open special accounts for small amounts, or for those sites that may be further along in the cleanup process, because regions need to spend time and staff resources monitoring these new accounts. An EPA official stated that EPA's Superfund Special Accounts Senior Management Committee has approved a review of the policy for establishing special accounts. The committee plans to begin this study in fiscal year 2012 and, if needed, develop further guidance on the opening of special accounts.

Furthermore, according to several of these regional officials, the changes to notifications and revised model memorandum have made the reclassification and transfer processes easier by minimizing the number of staff who need to prepare and approve reclassifications and transfers while saving time by eliminating extensive preparation and headquarters review of notifications. The revised processes allow special account funds to be reclassified and transferred faster. In addition, in June 2011, EPA issued two fact sheets to regional special accounts staff that provide supplemental information on special account reclassifications, as well as specific steps required to close out a special account.

Agency Comments and Our Evaluation

We provided a draft of this report to EPA for review and comment. EPA provided technical comments that we incorporated into the report, as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, Administrator of EPA, and other interested parties. The report also will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-7114 or yocomc@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix II.

Sincerely yours,



Carolyn L. Yocom
Director

Appendix I: Objectives, Scope, and Methodology

This appendix provides information on the scope of the work and the methodology used to (1) describe the status of special accounts—including balances, locations, and recent and planned uses—of Superfund special accounts and (2) examine the extent to which the Environmental Protection Agency’s (EPA) headquarters and regions are implementing processes and policies to improve the monitoring and management of Superfund special accounts.

To describe the status of the 1,023 special accounts, we obtained and analyzed data from EPA’s Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database. Specifically, for information on special accounts balances; locations; and recent and planned uses, including funds that had been obligated and disbursed, as well as funds reclassified, transferred to the Superfund Trust Fund, or closed, we analyzed spreadsheets obtained from officials with EPA’s Office of Superfund Remediation and Technology Innovation. For those funds that were planned to be obligated and reserved for future use, as well as reclassified and transferred, we analyzed spreadsheets of planned funds derived from EPA’s CERCLIS special accounts planning screen, as of October 2010. We also obtained data and interviewed officials at EPA’s headquarters and the Office of the Chief Financial Officer regarding the makeup and current status of funds in the Trust Fund.

To assess the reliability of the data from EPA’s CERCLIS database used in this report, we analyzed related documentation, examined the data to identify if there were any obvious errors or inconsistencies, and interviewed knowledgeable agency officials about the data to see if there were any known problems with the data and to learn more about their procedures for maintaining the data. We determined the data to be sufficiently reliable for the purposes of this report.

To examine the extent to which EPA’s headquarters and regions are implementing policies and procedures to improve the monitoring and management of Superfund special accounts, we analyzed documents and interviewed officials from EPA headquarters offices, including the Office of Superfund Remediation and Technology Innovation, the Office of Site Remediation Enforcement, and the Office of the Chief Financial Officer. Specifically, we obtained and reviewed strategies and guidance issued by EPA headquarters to the regions on the special accounts process, as well as available EPA regional documentation on the use of management tools unique to EPA’s regions. We also analyzed documents and interviewed officials from EPA’s Office of Inspector

General (IG) regarding their 2006 and 2009 reports on EPA's management of special accounts. We also conducted interviews with officials in each of EPA's 10 regional offices and collected supporting documentation to determine how the regions managed and monitored their special accounts and coordinated with EPA headquarters and, if needed, conducted follow-up interviews to obtain additional data as a result of our analysis. During these interviews, we also obtained information on how EPA regions addressed EPA headquarters questions or recommendations for actions on their special accounts that arose during EPA's fiscal year 2011 annual review of the regions' planning data. Specifically, we discussed and obtained data on 20 special accounts (2 special accounts from each region) taken from a sample of 285 accounts about which EPA had questions or recommendations for actions. These accounts were chosen from a random nonprobability sample and therefore cannot be generalized to all special accounts.

We conducted this performance audit from October 2010 to January 2012 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.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the individual named above, Vincent P. Price, Assistant Director; Greg Carroll; Laina Poon; and Amy Ward-Meier made key contributions to this report. Elizabeth Beardsley, Cindy Gilbert, Julia Kennon, Ruben Montes de Oca, and Carol Herrnstadt Shulman also made important contributions.

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