

The State Review Process

*Meeting the Challenges of U.S. Oil & Gas Development
Collaboration to Improve the Regulatory Environment*

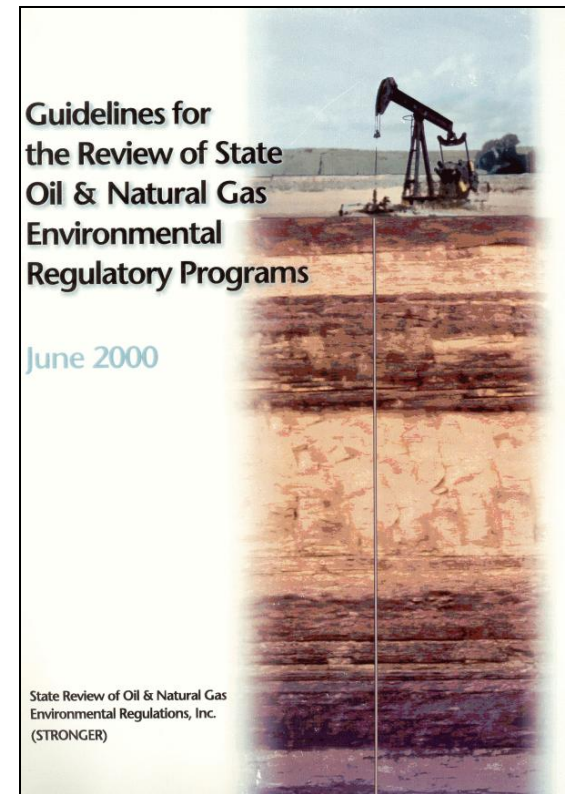
Presentation to PA Citizens Advisory Council
July 16, 2013

STRONGER

- State Review of Oil and Natural Gas Environmental Regulations, Inc.
- A multi-stakeholder collaborative effort to
 - Benchmark state regulatory programs
 - Develop recommended state program guidelines
 - Establish a review process to evaluate state regulatory programs against those guidelines

STRONGER

- Stakeholders
 - States
 - Industry
 - Environmental Organizations
- Supporters
 - IOGCC
 - GWPC
 - Federal agencies (EPA, DOE)
 - Industry (API, IPAA)



Background

- RCRA definition of solid waste
- Hazardous waste regulated under Subtitle C
- Exemption until EPA study
- Report to Congress – December 1987
- EPA regulatory determination – July 1988

EPA's Regulatory Determination

- State and federal regulation is generally adequate
- Recognized regulatory gaps and inadequate enforcement
- Developed a three-pronged approach
 - ~ Improve existing programs under RCRA, Safe Drinking Water Act and Clean Water Act
 - ~ Work with states to improve their programs
 - ~ Work with Congress on any additional legislation that might be needed



REGULATORY DETERMINATION
ON
WASTES FROM THE EXPLORATION, DEVELOPMENT, AND
PRODUCTION OF CRUDE OIL, NATURAL GAS, AND
GEOHERMAL ENERGY

Executive Summary

This action presents the Agency's regulatory determination required by Section 3001(b)(2)(B) of the Resource Conservation and Recovery Act (RCRA) for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy. RCRA requires the Administrator to determine either to promulgate regulations under Subtitle C for wastes from oil, gas, and geothermal exploration, development, and production, or that such regulations are unwarranted. In making this determination, the Administrator is required to utilize information developed and accumulated by the Agency pursuant to a study required under RCRA Section 8002 (m). The Agency completed this study and published its results in December, 1987 in a Report to Congress entitled "Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy."

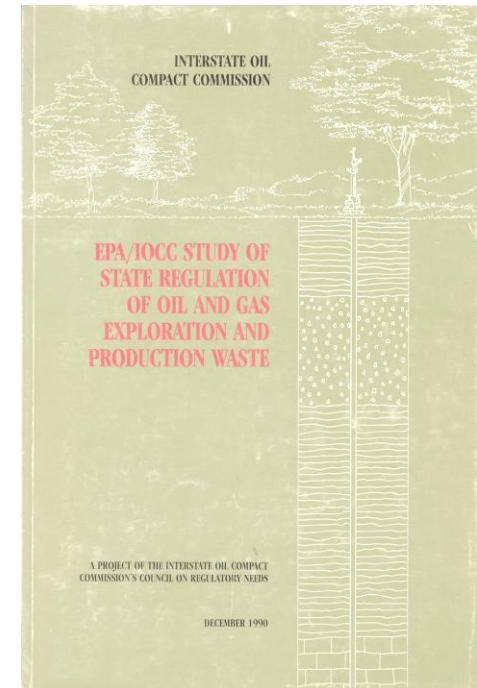
In completing the Report to Congress and this determination, EPA gathered and evaluated information on all of the issues raised in Section 8002(m), including three key factors pertaining to wastes from the exploration, development, and production of oil, gas, and geothermal energy: (1) the characteristics, management practices, and resulting impacts of these wastes on human health and the environment; (2) the adequacy of existing State and Federal regulatory programs; and (3) the economic impacts of any additional regulatory controls on industry.

In considering the first factor, EPA found that a wide variety of management practices are utilized for these wastes, and that many alternatives to these current practices are not feasible or applicable at individual sites. EPA found that oil, gas, and geothermal wastes originate in very diverse ecologic settings and contain a wide variety of hazardous constituents. EPA documented 62 damage cases resulting from the management of these wastes, but found that many of these were in violation of existing State and Federal requirements.

As to the second factor, EPA found that existing State and Federal regulations are generally adequate to control the management of oil and gas wastes. Certain regulatory gaps do exist, however, and enforcement of existing regulations in some States is inadequate. For example, some States have insufficient controls on the use of landfarming, roadspreading, pit construction and surface water discharge practices. Some States lack sufficient controls for central disposal and treatment facilities and for associated wastes. The existing Federal standards under Subtitle D of RCRA provide general environmental performance standards for disposal of solid wastes, including oil, gas, and geothermal

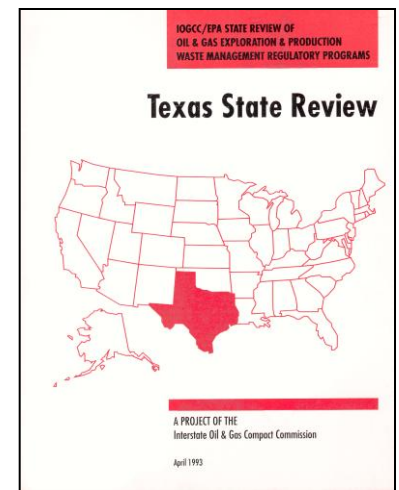
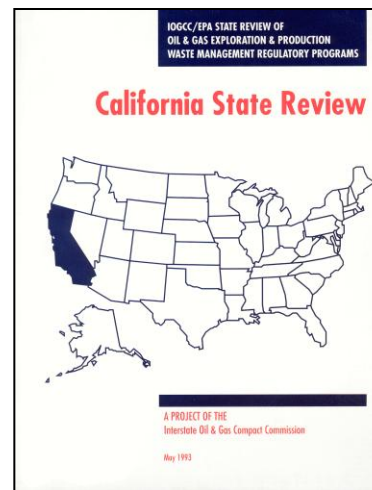
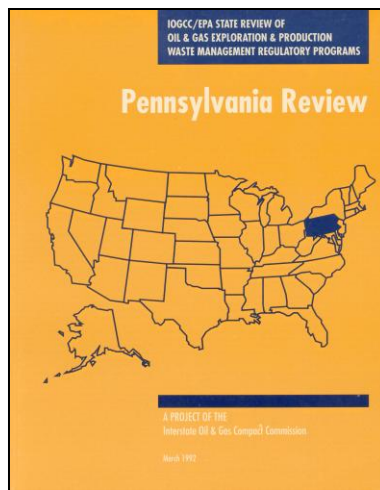
IOGCC Council on Regulatory Need

- Created in 1989 to assist states in improving their programs
- Council composed of
 - ~ Six oil and gas regulators
 - ~ Six environmental regulators
 - ~ Industry, environmental, and federal participants
- Funded by EPA grants
- Purpose was to develop guidelines representing the minimum acceptable regulatory criteria
- Published first Guidelines in 1990



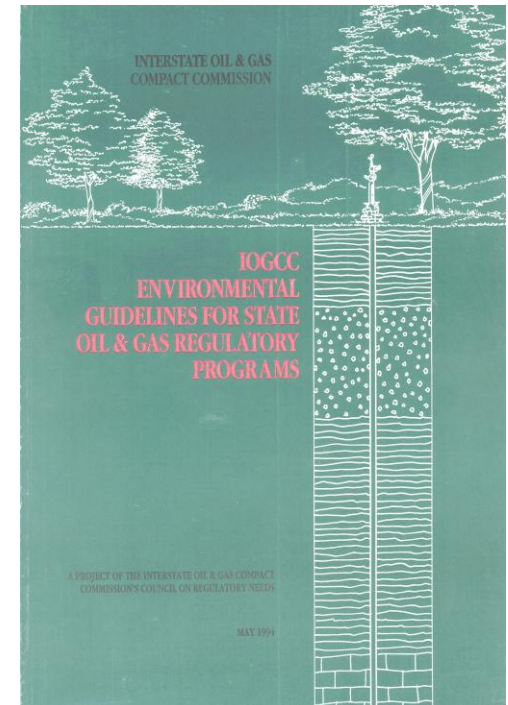
State Reviews

- State by state reviews of regulatory programs against the Guidelines
- Conducted by multi-interest stakeholder teams
- Review results in written report of findings and recommendations
- Began in 1990
- Developed rules of participation based on review experience
- A voluntary process
- 12 state programs reviewed through 1994



Guidelines Revision

- Updated and revised the 1990 Guidelines
- Expanded to include naturally occurring radioactive material and abandoned wells
- Addressed EPA clarification of exemption for certain associated wastes
- Completed in 1994
- Follow-up state reviews begun – all states showed program improvements
- Five state programs reviewed under 1994 guidelines
- Total of 17 states (over 90% domestic on-shore production) reviewed
- 1995 Presidential Task Force recognized process as a model for state/federal interaction



Process Issues and Breakdown

- Decreased funding
- Change in IOGCC Committee structure
- Loss of institutional memory
- Communication difficulties among stakeholders
- Last reviews conducted in 1997



Revitalizing the State Review Process

- Calls to revisit risks associated with E&P wastes
 - ~ 10 years since study
 - ~ new data & models available
- EPA facilitated meetings among the stakeholders (1997-98)
- Documentation of success of program to date
- IOGCC proposal to EPA to revitalize State Review Program(1998)
 - ~ Independent governing body
 - ~ Revised Rules of Participation
 - ~ IOGCC State Review Committee
 - ~ Include performance measurement in Guidelines
- EPA approved IOGCC proposal (1998)

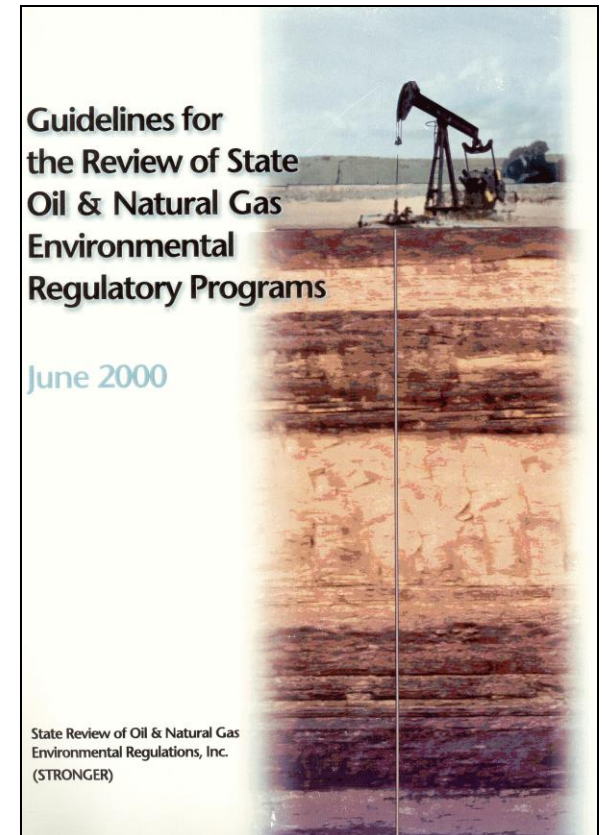


STRONGER

- Formed June 1999
- Functions:
 - Manage state review process
 - Sponsor new/revised guidelines
 - Develop procedures for reviews, training
 - Assemble review teams
 - Contract administrative/clerical support
 - Settle disputes

Guidelines

- Updated the 1994 Guidelines
- Expanded to include performance measures
- Completed in 2000
- Follow-up and initial reviews resumed
- Topics:
 - ~ General/Administrative
 - ~ Technical
 - ~ Abandoned sites
 - ~ NORM
 - ~ Performance measures



Guidelines Updates

- 2005:
 - ~ Spill Prevention & Performance Measures added to Administrative Criteria
 - ~ Stormwater Management section added
- 2010:
 - ~ Hydraulic Fracturing section added
- 2013:
 - Hydraulic Fracturing section updated



Rules of Participation

- Adopted in 2000
- Establishes rules for:
 - ~ Selection of participants
 - ~ Preparation for review
 - ~ Conduct of review
 - ~ Report writing
 - ~ Dispute resolution



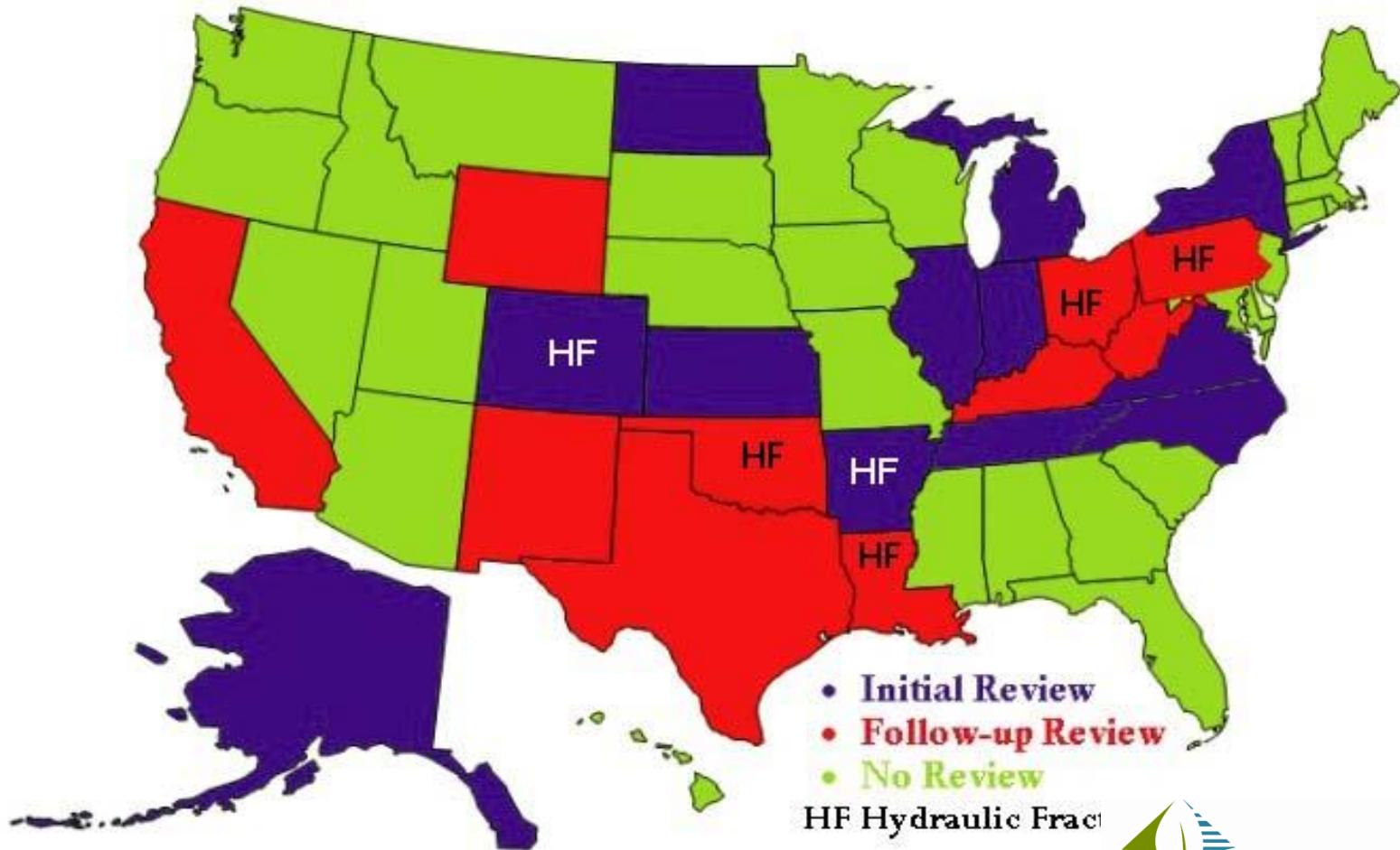
Reports

- Executive summary
 - Highlights program strengths
 - Summarizes key recommendations for improvement
- Discussion of program elements
- Findings and recommendations
- Appendix
 - Response to questionnaire (state's description of its program)

Results

- 22 states reviewed – 94% onshore production
- 10 states with follow-up reviews – 76% of recommendations satisfied
- 2009 survey – all states implemented some recommendations
 - 33% fully implemented
 - 27% partially implemented
 - 26% outstanding
 - 14% unknown

State Reviews



• Initial Review
• Follow-up Review
• No Review
HF Hydraulic Fracturing



Hydraulic Fracturing

- Workgroup convened (Aug. 2009)
- Guidelines submitted to STRONGER (Jan. 2010)
- Reviews completed:
 - Pennsylvania
 - Ohio
 - Oklahoma
 - Louisiana
 - Colorado
 - Arkansas

Hydraulic Fracturing

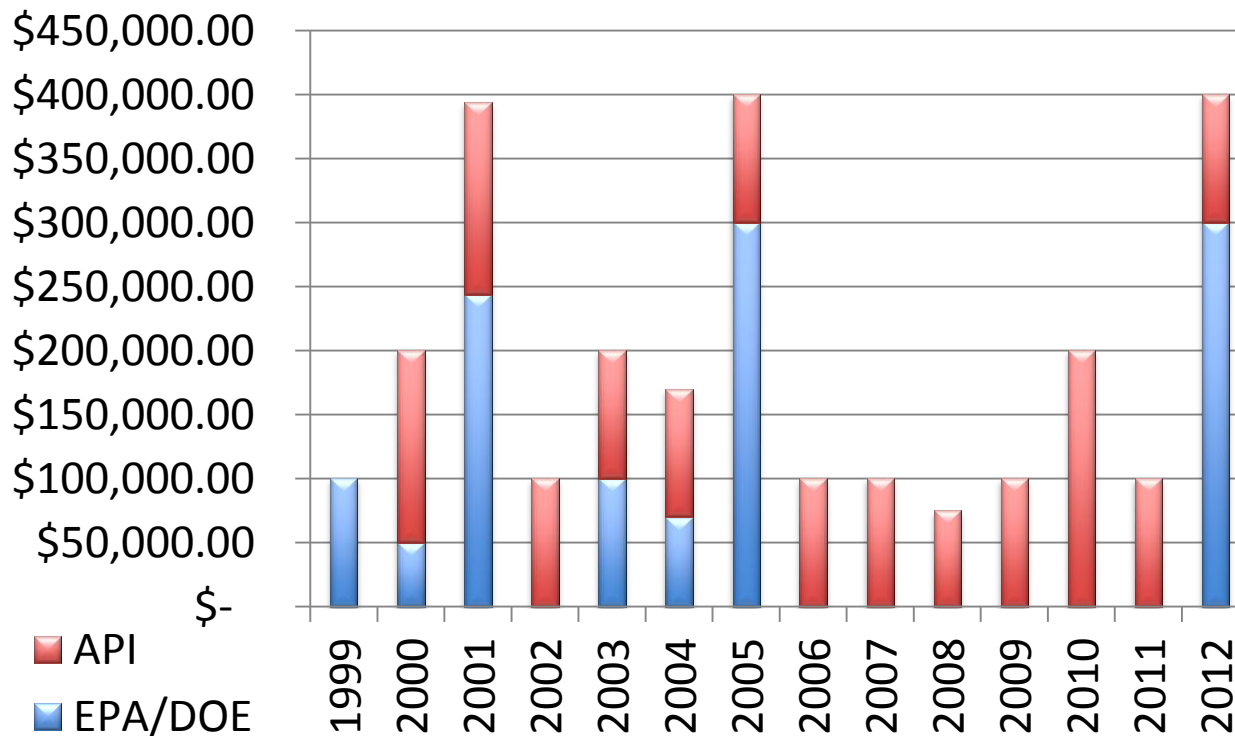
- Reviews resulted in identification of shortcomings in guidelines subject material
- HF Guidelines Revisions Workgroup formed in 2012
- Draft Guidelines revisions submitted to EPA, DOE, BLM, state directors, industry associations & environmental organizations for comment
- Comments considered and revised HF Guidelines sent STRONGER (May, 2013)
- Approved for use May 2013

Air Quality Guidelines

- All Guidelines versions (1990, 1995, 2000, 2005, 2010) recommended consideration of air issues
- 2012 – Hydraulic Fracturing Guidelines Revisions Workgroup recommended that STRONGER consider air issues associated with hydraulic fracturing
- 2012 – STRONGER Board formed discussion group
- 2013 – Discussion group recommended guidelines – workgroup was formed and is currently drafting guidelines – anticipate available by end of 2013 or early 2014

STRONGER Funding Summary

1999 to 2010

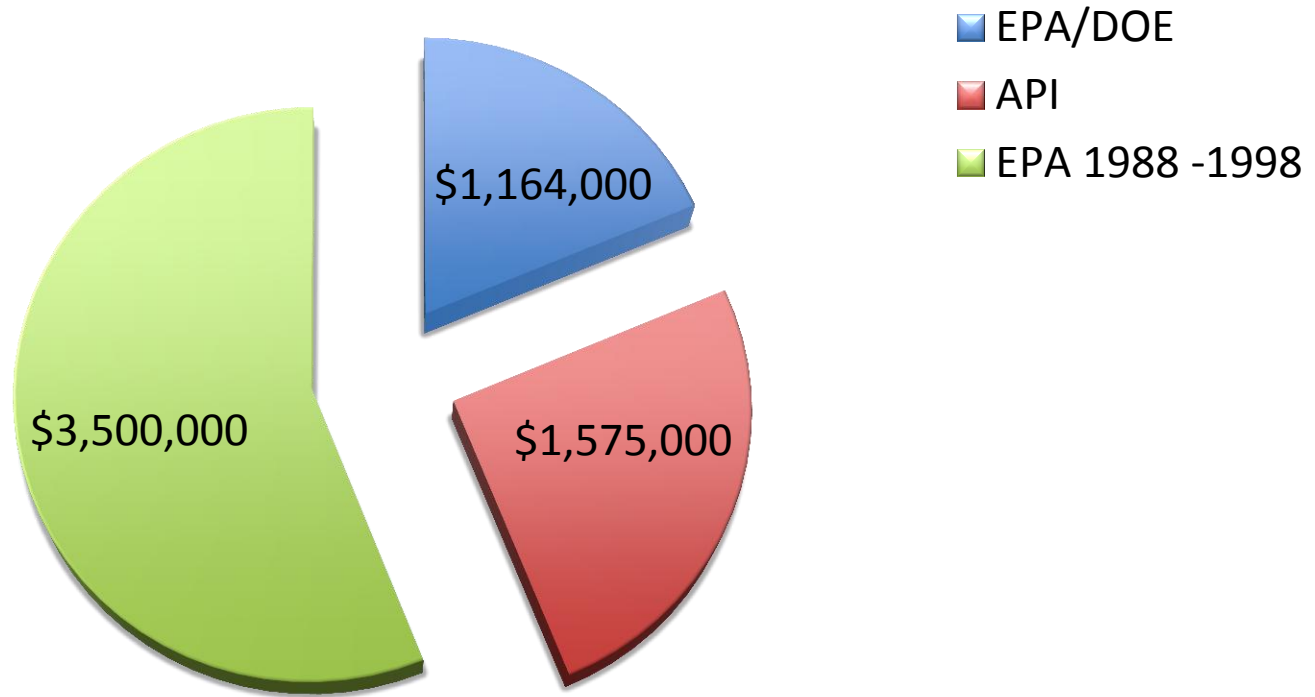


Notes:

- Prior to 1999 and STRONGER, EPA contributed \$3.5 million to IOGCC to manage the state review process.
- This summary does not reflect in-kind contributions from states and other stakeholders.



STRONGER Funding Summary



Strengths of Review Process

- All work performed by stakeholder teams
- Guidelines recognize regional differences
- Reviews document program strengths and opportunities for improvement
- Follow-up reviews are conducted to review implementation of prior recommendations and review program against more recently developed guidelines
- Process is transparent and timely

Benefits of Review Process

- State control of E&P waste programs
- Improved state oil and gas environmental regulatory programs
- Process for continuous program improvement
- Opportunity to share and promote new or unique concepts and ideas
- Flexible reviews to meet state needs
- Great educational process for all participants

Pennsylvania Review

- 5th review of the program
- In-state visit – May 28 – 31, 2013
- 10-person review team
- Report drafted and sent for comments July 5
- Findings and Recommendations confidential until report finalized
- Expect final publication in September/October

Questions?

For More Information

STRONGER website - www.strongerinc.org

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