



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

February 22, 2021

MEMORANDUM

SUBJECT: Request to Reconsider the Audit Dispute Resolution Decision Regarding the Office of Inspector General Report No. 20-N-0128, *Management Alert: Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns*, issued March 31, 2020

FROM: Sean W. O'Donnell 

TO: Jane Nishida, Acting EPA Administrator

I request that you reconsider former EPA Administrator Andrew Wheeler's decision to close our recommendation to interactively communicate significant health risk to residents living near many EPA-identified high-risk ethylene oxide-emitting facilities.

In 2016, the EPA revised ethylene oxide's carcinogenic description from "probably carcinogenic to humans" to "carcinogenic to humans." Subsequently, the EPA identified 25 high-priority ethylene oxide-emitting facilities that contributed to elevated estimated cancer risks, but the EPA or the states only communicated those risks to nine of the 25 affected communities. The OIG, in the subject report, recommended that the EPA ensure that the remaining 16 communities be afforded the same forums for interactive exchange regarding the elevated cancer risk.

After the OIG issued the subject report, then-Administrator Wheeler issued a press release requesting that I rescind it. I declined his request. My office, however, remained committed to working with the EPA to develop a corrective action plan that meets the intent of our recommendation. We agreed, for example, that challenges existed in holding public meetings during the coronavirus pandemic—that is, the SARS-CoV-2 virus and resultant COVID-19 disease. We noted that the EPA had used a variety of forums during the pandemic, such as virtual webinars and workshops, that could be used to promptly communicate with residents. In its formal responses on May 15, 2020, and October 9, 2020, the EPA did not commit to promptly holding forums of interactive exchange, instead proposing corrective actions and milestones that did not meet the intent of our recommendation.

Because the parties were unable to reach agreement on the recommendation, the parties engaged in the dispute-resolution process set forth in the U.S. Environmental Protection Agency Manual 2750, *Audit Management Procedures*. On January 4, 2021, then-Administrator Wheeler concurred with the Office of Air and Radiation's position that the recommendation should be closed. Afterward, then-Administrator Wheeler requested that the OIG post on its website the documents he relied on for his decision. Of note, one of these documents had not previously been shared with the OIG for our response.

We would be glad to brief your staff on this issue.

cc: Dan Utech, Chief of Staff
Avi Garbow, Special Advisor to the Administrator
David Bloom, Acting Chief Financial Officer
Joseph Goffman, Acting Assistant Administrator for Air and Radiation
Andrew LeBlanc, Agency Follow-Up Coordinator
José Kercado, Agency Follow-Up Coordinator
Charles J. Sheehan, Deputy Inspector General
Edward S. Shields, Associate Deputy Inspector General
Benjamin May, Chief of Staff and Acting Counsel to the Inspector General
Rashmi Bartlett, Acting Assistant Inspector General for Evaluation
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Renee McGhee-Lenart, Acting Director, Air Directorate, Office of Inspector General