



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

APR 24 2012

THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: OIG Report No. 12-P-0376, *Early Warning Report: Use of Contractors to Conduct Clean Air Act Risk Management Program Inspections in Certain States Goes Against Court Decisions*, March 28, 2012

TO: Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assistance

Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response

Gina McCarthy
Assistant Administrator
Office of Air and Radiation

Thank you for your response to our final Report No. 12-P-0376, *Early Warning Report: Use of Contractors to Conduct Clean Air Act Risk Management Program Inspections in Certain States Goes Against Court Decisions*, March 28, 2012. We appreciate the actions taken and planned in response to the issues raised in our report.

In accordance with the U.S. Environmental Protection Agency (EPA) Manual 2750, your response included a proposed corrective action plan addressing each of the open recommendations. The Agency's proposed corrective actions and proposed timelines for completion meet the intent of our recommendations. Thus, with this memorandum, we are closing these recommendations in our tracking system.

The attached OIG Action Plan Analysis provides detailed information on each of the corrective actions for each of the recommendations, and the timelines for completion. The Agency is responsible for tracking and certifying completion of these actions in its Management

Audit Tracking System. Please notify my staff if there is a significant change in the agreed-to corrective action plan. If you or your staff have any questions regarding this memorandum or the attachment, please contact Elizabeth Grossman, Acting Assistant Inspector General for Program Evaluation, at (202) 566-0838, Rick Beusse at (919) 541-5747, or Jim Hatfield at (919) 541-1030.

Sincerely,



Arthur A. Elkins, Jr.

Attachment

cc: Lawrence Starfield, OECA
Lisa Lund, OECA, OC
Pam Mazakas, OECA, OCE
Barry Breen OSWER
Lawrence Staunton, OSWER, OEM
Janet McCabe, OSWER
Gwendolyn, Spriggs, OECA, OAP
Eric Hanger, Acting Counsel to the Inspector General, OIG
Elizabeth Grossman, Acting Assistant Inspector General for Program Evaluation, OIG
Rick Beusse, Director for Program Evaluation, Air & Research Issues, OIG
Jim Hatfield, Project Manager, Office of Program Evaluation, OIG

OIG Report No. 12-P-0376, *Early Warning Report: Use of Contractors to Conduct Clean Air Act Risk Management Program Inspections in Certain States Goes Against Court Decisions*, March 28, 2012

OIG Recommendation	Agency Action(s) Taken, Ongoing, or Planned	OIG Analysis	Status
<p>1. Immediately review the legality and appropriateness of its practice of using contractors to perform CAA risk management program inspections in the states covered by the Sixth and Tenth Circuit Courts.</p>	<p><i>EPA Response:</i> Assess any potential legal implications of 112(r) contractor inspections and CAA inspections/evaluations in affected states.</p> <p><i>Planned Completion Date:</i> 10/31/2012</p> <p><i>Responsibility:</i> OGC, OSWER, OECA, Regions</p>	<p>We accept the Agency's planned actions and the timeline for completion of the corrective actions.</p>	<p>Recommendation closed.</p>
<p>2. Determine whether contractors are used to conduct other CAA program inspections in states covered by the Sixth and Tenth Circuit Courts.</p>	<p><i>EPA Response:</i> Obtain and provide summary information on contractor 112(r) inspections and CAA inspections/evaluations in affected states.</p> <p><i>Planned Completion Date:</i> 10/31/2012</p> <p><i>Responsibility:</i> OAR, OECA, OSWER, Regions</p>	<p>We accept the Agency's planned actions and the timeline for completion of the corrective actions.</p>	<p>Recommendation closed.</p>
<p>3. If needed based on the results of its review, EPA should take immediate action to eliminate or revise its use of contractors to conduct risk management program inspections.</p>	<p><i>EPA Response:</i> Provide CAA 112 (r) regional program managers and Regional Air Enforcement Managers with 1984 policy memorandum and reiterate that 1984 policy still in effect.</p> <p><i>Completion Date:</i> 3/29/2012 by OSWER, OECA, and Regions</p> <p><i>EPA Response:</i> Discontinue use of 112(r) inspections in affected states.</p> <p><i>Completion Date:</i> 3/28/2012 for Region 4 and 5/19/2011 for Region 7.</p> <p><i>EPA Response:</i> Follow up in writing to Regional program managers to ensure they conform with the Sixth and Tenth Circuit Court decisions and current Agency policy.</p> <p><i>Completion Date:</i> 4/20/2012 by OSWER</p>	<p>We accept the Agency's completed actions.</p>	<p>Recommendation closed.</p>

Continued

4. Update and reissue its policy memo on the use of contractors to perform CAA inspections.

EPA Response: As necessary, revise and reissue related policy and guidance memoranda.

Planned Completion Date: 12/31/2012

Responsibility: OSWER, OAR, OGC, OECA, OARM, Regions

EPA Response: Finalize guidance for issuing federal credentials to contractors and related revisions to EPA Order 3510.

Planned Completion Date: 12/31/2012

Responsibility: OSWER, OAR, OGC, OECA, OARM, Regions

We accept the Agency's planned actions and the timeline for completion of the corrective actions.

Recommendation closed.