



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

OCT 27 2015

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Response to the Office of the Inspector General Final Report, "EPA Can Reduce Risk of Undetected Clean Air Act Violations Through Better Monitoring of Settlement Agreements," Report No. 15-P-0277, September 10, 2015

FROM: Cynthia Giles
Assistant Administrator *Cynthia Giles*

TO: Arthur A. Elkins, Jr., Inspector General
Office of the Inspector General

The purpose of this memorandum is to transmit our response on the subject evaluation issued on September 10, 2015, which focuses on the monitoring of settlement agreements. We appreciate your consideration of our comments made in follow-up to your May 5, 2015 draft evaluation.

The Office of Enforcement and Compliance Assurance agrees that the monitoring of settlement agreements is one of the many important functions of the enforcement program and we are committed to strengthening our settlement agreement monitoring program by implementing the recommendations in this report.

In accordance with EPA's Audit Management Policy Manual 2750, we provide below planned corrective actions and completion dates for the recommendations for which OECA has the lead (recommendations 1 and 2) and which are unresolved; you received a memorandum from Region 3, dated October 14, 2015 (attached), regarding a planned corrective action and completion date for recommendation 4, also unresolved. Recommendations 3 (OECA lead) and 5 and 6 (Region 6 lead) are resolved pursuant to the subject evaluation and require no further response.

EPA Response to Report Recommendations 1 and 2

Agree:

| Recommendation | Corrective Action | Due Date |
|--|--|--------------------|
| 1. Update and reissue the <i>Manual on Monitoring and Enforcing Administrative and Judicial Orders</i> to address: | 1. Update and reissue Chapter 1 (Monitoring and Reporting the Status of Orders) of the <i>Manual on Monitoring and Enforcing</i> | September 30, 2016 |

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| <p>a. Requirements for monitoring of CDs, including enforcement file documentation; responsibilities for ensuring applicable CAA permit applications and draft permits have incorporated CD-required emission limits and other requirements; and documentation of EPA management decisions, company follow-up and correspondence.</p> <p>b. EPA's general responsibilities and process to be used to terminate a CD.</p> <p>c. Documentation needed to demonstrate supervisory review of enforcement staff's CD monitoring activities.</p> | <p><i>Administrative and Judicial Orders</i> to address:</p> <p>a. Requirements for monitoring and enforcing of administrative and judicial orders (final orders), including what documentation of efforts to verify compliance should be in the enforcement file (e.g., company self-reporting and efforts to address noncompliance; EPA contacts with the company; correspondence; file documentation, including supervisor signature, of agency follow-up to violations; confirmation that consent decree requirements are incorporated into permit applications and draft permits).</p> <p>b. A program's responsibility to terminate a judicial enforcement case with a consent decree in accordance with the legally-required provisions for termination as provided in individual consent decrees; and,</p> <p>c. Regular supervisory review of the status of final orders with the appropriate staff to ensure that all milestones set forth in the final orders are being met in a timely fashion and that office policy is being carried out effectively on discretionary issues.</p> | |
| <p>2. Ensure that all regions have CD compliance monitoring systems in place that:</p> <p>a. Track receipt of all CD deliverables.</p> <p>b. Flag overdue CD deliverables.</p> <p>c. Provide timely access to all CD deliverables.</p> <p>d. Document EPA decisions as to whether deliverables meet the CD requirements.</p> | <p>2. Ensure that all programs responsible for tracking consent decree compliance status maintain a consent decree system that is easily accessible and that includes the following information:</p> <p>a. Case name and docket number;</p> <p>b. Statute/program; and,</p> <p>c. All required milestones in the final orders and their due dates and a block</p> | <p>September 30, 2016</p> |

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| <p>e. Record all CD violations and EPA decisions on whether and how much stipulated penalties were assessed.</p> <p>f. Demonstrate supervisory review and approval of enforcement staff's CD monitoring activities.</p> | <p>for inserting the date each milestone was completed.</p> | |
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If you have any questions concerning this response, please feel free to contact Gwendolyn Spriggs, the OECA Audit Liaison, at 202-564-2439.

Attachments

cc:

- Larry Starfield, OECA
- Susan Shinkman, OCE
- Rosemarie Kelley, OCE
- Betsy Smidinger, OC
- John Fogarty, OCE,
- Lauren Kabler, OCE
- Mamie Miller, OC
- Lorraine Fleury, Region 3
- Susan Jenkins, Region 6
- Gwendolyn Spriggs, OAP