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

May 15, 2020

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Response to Office of Inspector General Management Alert "Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns," Report No. 20-N-0128 (March 31, 2020)

FROM: Douglas Benevento, Associate Deputy Administrator

TO: Katie Butler, Acting Assistant Inspector General for Audit and Evaluation
Office of Audit and Evaluation
Office of Inspector General

Thank you for the opportunity to respond further to the recommendation identified in the subject Management Alert report from EPA's Office of Inspector General (OIG). Specifically, the OIG recommended that EPA:

> *Improve and continue to implement ongoing risk communication efforts by promptly providing residents in all communities near the 25 ethylene oxide-emitting facilities identified as high-priority by the EPA with a forum for an interactive exchange of information with the EPA or the states regarding health concerns related to exposure to ethylene oxide.*

Although we were surprised by, and disagree with, both the tone and substance of the report, we offer a proposed corrective action plan with milestones in the interest of resolving this matter.

This proposed plan was developed based on two guiding principles:

First, risk communication must rely on accurate information. Indeed, the agency's mission statement, as you noted in the report, states that the Agency work to ensure that "all parts of society ... have access to accurate information sufficient to effectively participate in managing human health and environmental risks." The report misses the part of the mission statement that includes providing access to *accurate* information.

As we noted in prior correspondence, because the National Air Toxics Assessment (or NATA) provides *screening level* results which have inherent uncertainties, additional work is necessary to more fully understand the risks that NATA identified as being potentially elevated in certain areas.

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We believe this follow-up work must be conducted prior to significant public outreach. It is critically important that we provide residents information that is as detailed and up to date as possible when communicating risk. Public engagement based on dated, preliminary, uncertain information is irresponsible and undermines the Agency's credibility.

Second, state leadership is essential to deal effectively with local air toxics issues, like ethylene oxide. The approach for action and public engagement in each area must be tailored to, and focused on, the specific community and the specific facility. States, who have primary responsibility for air pollution prevention and air pollution control under the Clean Air Act, are best positioned to lead this work. Under the second prong of the Agency's two-pronged approach for addressing emissions of ethylene oxide in response to the most recent NATA, we are continuing to support state-led efforts to not only conduct additional, more refined investigations, but also carry out appropriate outreach with affected communities. And, as we noted in prior correspondence, these efforts have already led to significant emission reductions and public health benefits in several areas.

In keeping with these guiding principles, we offer the following two-part corrective action plan with milestones: (1) conduct additional, more refined investigation of risk and (2) conduct outreach to affected communities.

Part 1. Conduct additional, more refined investigation of risk

a. Regions 2, 3, 4, 5, 7 and 8 (15 facilities/areas)
   Milestone: Technical work has already been completed or is well underway for these facilities/areas. EPA will post quarterly status reports on these additional, more refined investigations to the Agency's/Regions' Ethylene Oxide website beginning September 30, 2020.

b. Region 6 (9 facilities/areas)[1]
   Milestone: EPA Region 6 will work with the states of Texas and Louisiana on facility/area-specific technical assessments. Information on the assessments will be posted to the Agency's/Regions' Ethylene Oxide website beginning with the Agency's December 31, 2020 quarterly progress report.

   Longer Term Milestone: EPA will complete additional, more refined investigations of risk for all high-risk areas identified by the most recent NATA (i.e., the 24 facilities/areas) by June 30, 2021.

[1] EPA believes the OIG erroneously included one facility -- the Sterigenics Santa Teresa Facility in New Mexico -- in its report. EPA clearly noted in its NATA documentation that this facility installed a control device and had reduced ethylene oxide emissions by 83% between 2014 and 2016 – prior to the NATA release. No further technical assessment or public outreach is believed necessary at this time. See https://www.epa.gov/sites/production/files/2018-08/documents/2014_nata_updates_to_emissions.pdf

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Part 2. Conduct outreach to affected communities[2]

a. Regions 2, 3, 4, 5, 7 and 8 (15 facilities/areas)
   Milestone: Public outreach has already occurred or is planned for these facilities/areas. Any additional outreach for these facilities/areas should proceed as planned and as appropriate – in accordance with local directives related to COVID-19. EPA will post quarterly status reports of outreach activities to the Agency's/Regions' Ethylene Oxide website beginning September 30, 2020.

b. Region 6 (9 facilities/areas)
   Milestone: EPA Region 6 will work with the states of Texas and Louisiana to explore appropriate communication tools and assist the states in developing facility/area-specific outreach information. Descriptions of the tools, information, and outreach activities will be posted to the Agency's/Regions' Ethylene Oxide website beginning with the Agency's December 31, 2020 quarterly progress report.

   Milestone: Most of the facilities of interest in Region 6 are chemical plants. By May 29, 2020, EPA must issue a final review of the National Emissions Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing (known as "the MON), which addresses ethylene oxide emissions at some chemical plants. EPA will reach out to Texas and Louisiana to offer them an opportunity to participate in a public webinar in June 2020 (after the MON is issued). EPA would cover the requirements of the rule; the states would be given an opportunity to discuss MON-affected chemical plants in their jurisdictions.

   Longer Term Milestone: EPA will complete initial outreach for all high-risk areas identified by the most recent NATA (i.e., the 24 facilities/areas) by June 30, 2021. Please note this initial outreach would lead to an open and appropriate ongoing communication with surrounding communities.

If you have any questions concerning our proposed corrective action with milestones, please contact Michael Koerber, Deputy Director, Office of Air Quality Planning & Standards, (919) 541-5557.

[2] In light of the COVID-19 crisis, EPA is not able to convene or support in-person public meetings for the foreseeable future. As we noted in prior correspondence, effective public outreach can occur in many forms. At any time, public meetings ("forums for an interactive exchange of information with the EPA") may not be the best approach for initial public outreach in all areas. Holding such in-person meetings now could put the public at increased risk of contracting the virus that causes COVID-19. EPA will continue to explore a wide variety of appropriate communication tools, including targeted webinars, website postings, virtual open houses, local distribution of printed materials, and partnering with existing outreach efforts by state or local governments.

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