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

October 26, 2021

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: EPA Response #2 to OIG Report titled: "EPA Delayed Risk Communication and Issued Instructions Hindering Region 5's Ability to Address Ethylene Oxide Emissions" - Project No. OA&E-FY19-0091, April 15, 2021

FROM: Joseph Goffman
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TO: Renee McGhee-Lenart
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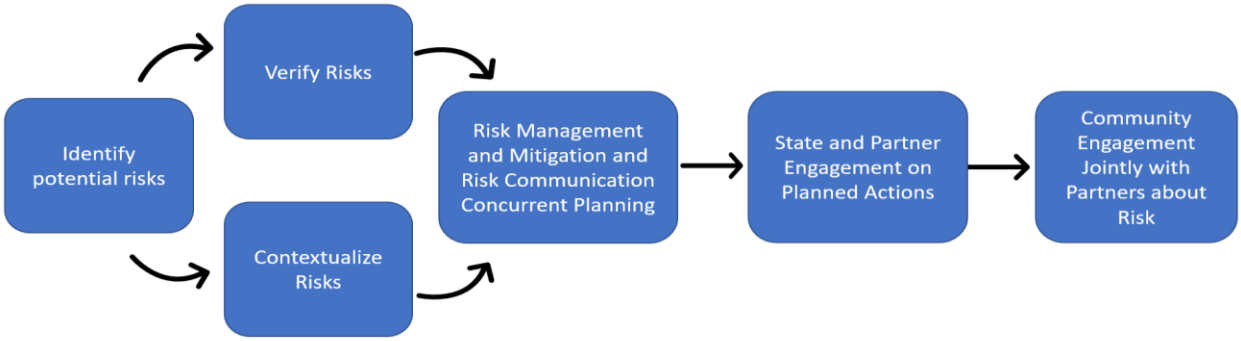
Thank you for the opportunity to respond to the Office of the Inspector General's (OIG) April 15, 2021, report titled *EPA Delayed Risk Communications and Issued Instructions Hindering Region 5's Ability to Address Ethylene Oxide Emissions* (hereinafter "Report"). On March 5, 2021, OAR provided a response that contained proposed corrective actions to address Recommendations 1 and 2 in the draft Report (February 4, 2021). In the April 15, 2021 final version of the report posted to the web, OIG expressed concern with the proposed corrective actions for Recommendations 1 and 2. After our May 18, 2021, conference call and several follow up discussions with OIG, OAR is providing the following additional information to add more specifics in response to the OIG's outstanding concerns.

Recommendation 1: Develop standard operating procedures describing how the Office of Air and Radiation will work with EPA regional offices to communicate preliminary air toxics risk information, including elevated risks found in the National Air Toxics Assessment, to the public so that communities are promptly informed of potential health concerns.

Proposed Corrective Actions: It should be noted that determining precisely when a risk is officially identified as being of concern and when preliminary data needs to be communicated broadly are complicated questions that require improvements in internal and external communication, coordination, and collaboration. To help deal with these questions, the Office of Air Quality Planning and Standards' *Strategy for the Air Toxics Program* lays out several mechanisms including: 1) strategic engagement of staff and management with each other, EPA offices (e.g., Regional Offices, OTAQ, ORD, OCSPP), EPA regulatory partners, and stakeholders

to understand, obtain, and exchange information; and 2) strategic engagement of staff and managers with regard to other sources of information, such as current scientific literature, routine and novel assessments, regular work activities, and policy and political interests. These types of engagement activities provide the foundation for early identification of potential new and emerging issues.

Assigning static roles and responsibilities for risk communication inhibits the Agency's ability craft the most effective approach based on the information available. It also, in many cases, can inhibit the Agency from meeting the needs of prospective stakeholders. The Agency has, however, included more information about the process that will be followed and is offering products to assist practitioners and to meet the concerns of OIG. For example, the diagram below shows the multi-step process leading up to prompt communication of air toxics risk information to affected communities.



We also wish to note the importance of increased and continued coordination with the cross-agency risk communication effort to implement a framework based on a process of Strategy, Action, and Learning, supported Tools (i.e., SALT Framework) to improve risk communication about air toxics generally and specifically in an environment of scientific uncertainty as is often the case when communicating about preliminary data. This includes increased opportunities for our staff to learn and practice risk communication foundational skills.

We are committed to making two significant modifications to the *Strategy for the Air Toxics Program*:

1. Air Toxics Partnership Practice Document: This standard operating procedure, which will be added as a supplement to the *Strategy for the Air Toxics Program*, will focus on leveraging regional and risk communication expertise in engaging partners about air toxics risk. This document will serve as a guide to assist potential risk communicators think strategically about how to engage with states and communities on complex risk issues and will include pointers on navigating scientific uncertainties in communication with communities. Topics in this document will include identification of key internal and external partners, of available regulatory authorities and resources, and primary steps in and roles with respect to engagement.

2. The Agency will add the following standard operating procedures regarding roles and responsibilities to the document:

   While EPA cannot proactively predict which agency or partner should lead a particular risk communication effort, there are certain roles in risk communication we can anticipate needing to fill. When a risk of concern to a specific community or communities is identified, OAQPS will raise that to the attention of EPA Regional Offices. Together, experts in OAQPS and the affected Regions – in coordination with state, tribal or local air agencies, as appropriate -- will determine which agency(ies) or partner(s) would be the appropriate lead in communicating that risk to a community/communities.

   For issues that involve multiple communities across the country, OAQPS can expect to provide basic materials on the air toxic at issue and the health risks associated with long-term exposure to that pollutant. OAQPS and/or the Agency's Senior Advisor for Risk Communication also will provide guidance and support for EPA Regions as they develop risk communication plans to ensure that roles, responsibilities, and support provided are aligned with the Agency approach to risk communication. The Agency approach to risk communication acknowledges the need for coordination and alignment while recognizing that approaches must be adapted to reflect specific situations.

   Because of the variables that can be involved in air toxics issues –how widespread risk is, the values of communities potentially affected --there is no one-size fits all risk communication plan. EPA Regions are the key contact point for state, local and tribal air agencies, and generally have the lead on reaching out to those agencies to discuss a particular situation involving risk and in determining which agency or organization would be best positioned to lead a risk communication effort. Regions may bring OAQPS into these discussions as appropriate.

Target Completion Date: Third Quarter FY 2022

Recommendation 2: Develop standard operating procedures describing the roles and responsibilities of the Office of Air and Radiation and Regional Offices in assessing and addressing air toxics emissions contributing to potential health risks as found in the National Air Toxics Assessment, other studies, or public complaints.

Proposed Corrective Actions:
One of the key objectives of the *Strategy for the Air Toxics Program* is to establish a framework to improve how EPA works internally, as well as externally, to address air toxic issues more effectively and proactively. To that end, the Agency commits to the addition of standard operating procedures in the *Strategy for the Air Toxics Program* covering the "Air Toxics Equities Landscape." This addition will:

- Clarify specific roles and responsibilities of the entities described in the document);
- Explain how various programs contribute to knowledge about emissions (e.g., how does the authority given under TSCA affect our knowledge of emissions); and

- Outline state regulatory authorities and how those authorities may impact approaches to mitigation and community engagement.

It should be noted that while general roles are outlined, the complexities involved mean that many factors can influence the exact roles played and steps taken in assessing and addressing air toxics emissions. Some of these factors include: the uncertainty in the science, the level of the risk, the individual pollutant, the local jurisdiction, the source category, relevant state, local or tribal authorities, available Federal authorities, and the availability of resources at the federal, state, local, or tribal level.

The regional coordination of state and local partners and facilities is critical to understanding emissions and any risks they pose, and also to addressing those risks. States and locations vary dramatically concerning local legal authorities, resource availability, public trust, industry and community engagement, and risk perception.

In addition to the roles, responsibilities, processes, and functions described for the Air Toxics Screening and Evaluation Team (ATEST in the Air Toxics Strategy), OAQPS has standing regional outreach and engagement mechanisms through which substantive discussions about air toxics issues occur. In addition to technical workgroups, standing meetings where air toxics issues are discussed between headquarters and EPA regions include:

- Monthly Air Program Managers Meeting
- Monthly Air Division Directors Meeting
- Air Toxics Risk Assessors (ATRA) Monthly Meeting
- Air Toxics Air Program Managers Bi-monthly Meeting

At these meetings, the Air Toxics Strategy coordinator routinely provides status updates, informs participants about emerging issues, solicits feedback, and engages in substantive discussions about air toxics issues. The coordinator also shares this information with the Air Toxics Strategy Teams, OAQPS senior management, OAR, and the Agency risk communication lead. The Agency proposes to add language to the *Strategy for the Air Toxics Program* that addresses the coordination described above.

Further, the Agency is revising its approach to be more responsive to the needs and concerns of the public. The Agency is transitioning from a National Air Toxics Assessment (previously released every 3-4 years) to an annual Air Toxics Data Update.[1] This approach will improve the frequency of releases of air toxics information to the public.

Target Completion Dates: Third Quarter FY 2022 (for making modifications to the Strategy for the Air Toxics Program.) As for the air toxics data update, air toxics data for 2017 will be released via EJSCREEN in December 2021. Emission year 2018-2020 data will be released annually, through the Spring of 2024. The Agency will engage stakeholders to address gaps between information previously shown in NATA and information available in EJ Screen.

[1] Website accessed October 6, 2021; https://www.epa.gov/haps/improving-access-air-toxics-data

Finally, the Agency will transition to providing more detailed air toxics information in its Air Trends Report by 2024.

Appendix

Supporting Rationale for the Agency's Response to OIG

OAR agrees with the OIG that communities with risks from air toxics should have access to meaningful, understandable, and actionable information about those risks in a timely manner. While OAR also agrees with the general goals of the OIG's two recommendations, we do have some concerns that developing overly restrictive standard operating procedures may limit the Agency's ability to effectively respond to a wide range of air toxics issues in the states and individual communities where these risks need to be managed. OAR also wants to clarify that while risk communication is critical to improved response on air toxics, risk communication alone will not solve the issues raised in this report. Further explanations of these concerns are explained below.

Much progress has been made over the past year and a half on risk communication in general and specifically in the Agency's ability to communicate about ethylene oxide.

- The Agency-wide risk communication process framework, the SALT Framework, was released in March 2021 and provides a process, grounded in science, to guide risk communication efforts across the Agency.
- In addition, cross-agency staff have developed foundational messaging on ethylene oxide, "explainers," which were developed with an audience-first perspective and risk communication best practices in mind.
- A formal risk communication training course was launched in 2020 with over 220 participants now having taken the 5-day, 20-hour risk communication course including many who work on issues of air toxics. In addition, a special short course held in May specifically dedicated to risk communication about ethylene oxide was attended by over 200 EPA staff including representatives from across EPA's regions. OAQPS also held several risk communication courses for staff in Fall 2020 and early 2021.

Agency's General Response to Recommendations

Effectively identifying and addressing existing, emerging, and future air toxics issues requires a complex interplay between:

- New and evolving scientific understanding on each of the core components of the risk paradigm including hazard identification, dose-response, and exposure assessments;
- Regulatory authorities both on the national and state level;
- On the ground partnerships with states that can vary dramatically based on local priorities and resource availability;
- Understanding various risk communication audiences so that we can meet their needs.

Taken together, these complexities make a one-size-fits-all, standard operating procedure approach not only challenging, but, in some cases, undesirable, either as this pertains to communicating all potential preliminary air toxics risk information (Recommendation 1) or to roles and responsibilities for EPA staff and our state partners as we seek to work together to mitigate risk (Recommendation 2).

OAR does agree, however, that by improving coordination, standardizing our processes, and increasing our reliance on risk communication best practice, we will better be able to fulfill our mission and meet the needs of the American public. Toward that end, these two significant strategic documents underpin OAR's efforts to achieve the goals of Recommendations 1 and 2:

- In 2020, OAQPS developed the Strategy **for the Air Toxics Program.** This detailed strategy includes components focused on identification and prioritization of air toxics issues; air toxics data analytics; management and mitigation strategies; and outreach and implementation.
- The Agency-wide risk communication process framework, **the SALT Framework**, provides a best-practice informed process for EPA staff communicating about air toxics to better meet the needs of their audiences, whether those audiences are internal, regulatory partners, or impacted community members.

These two documents provide the foundational processes for how the Agency identifies, verifies, and contextualizes air toxics risks, but also how the Agency manages and mitigates those risks and coordinates risk communication.

As a part of OAR's internal strategy to improve our ability to identify and communicate about risks more effectively, OAQPS recently established the *Strategy for the Air Toxics Program to* improve internal and external communication, coordination, and collaboration around air toxics. Under the strategy, OAQPS has developed processes to improve how we work internally within OAQPS as well as with regional offices and other EPA HQ offices. Identifying, verifying, and contextualizing risk are all important steps in identifying air toxics issues which need further attention in the form of risk management, mitigation, and risk communication planning.

For example, the strategy describes how OAQPS will work with EPA regional offices to communicate preliminary air toxics risk information using existing recurring meeting structures as well as specialized planning as relevant, including elevated risks found in national analyses (such as those conducted as part of rulemakings or for other purposes). Planning to then communicate about air toxic related risk externally is best carried out in partnership with both EPA regional offices and our partners on the ground including state departments of the environment, but also at times local and Tribal governments and community leaders. Partnership planning, ahead of risk communication outreach and engagement, is consistent with risk communication best practice and with the SALT Framework. The Agency is committed to this approach and has proposed a series of corrective actions to further address OIG's concerns.