



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

OFFICE OF POLICY

**MEMORANDUM**

**SUBJECT:** EPA Response to OIG Report titled “The EPA Was Not Transparent About Changes Made to a Long-Chain PFAS Rule After Administrator Signature” -- Report No. 22-E-0052, July 7, 2022.

**FROM:** Victoria Arroyo  
Associate Administrator  
Office of Policy

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Date: 2022.09.02  
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**TO:** Sean O'Donnell  
Inspector General

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG's) report titled, “The EPA Was Not Transparent About Changes Made to a Long-Chain PFAS Rule After Administrator Signature” (Report). The OIG identified one unresolved issue regarding the EPA's response to the May 4, 2022 draft Report with the same title.

EPA notes that while Recommendation 1 is resolved and Recommendation 2 is resolved with corrective actions pending, Recommendation 3 remains unresolved. OP appreciates the meeting between OP and OIG staff on July 19, and subsequent exchanges, to discuss concerns about Recommendation 3, EPA's proposed corrective action, and possible alternative corrective actions that could be undertaken.

EPA would like to reiterate that the events outlined in the report occurred in 2020, before the arrival of the current senior leadership team at EPA. The current leadership of the agency supports the goal of public transparency and is committed to appropriately documenting post-signature changes. In response to Recommendation 2 we are already working to revise internal procedures related to post-signature change memos by the end of this calendar year.

OIG Recommendation 3 is to: Update applicable policies, procedures, and guidance as needed to require that—when the EPA makes changes to a regulatory action as a result of a suggestion or recommendation received from the Office of Information and Regulatory Affairs between the time the action is submitted to the Office of Information and Regulatory Affairs for review and the time the action is published in the *Federal Register*—the EPA identify those changes for the public, consistent with Executive Order 12866 section 6(a)(3)(E)(iii).

As conveyed in our response to the draft Report, EPA continues to believe that there is no compelling evidence in the Report that the post-signature change request originated with OIRA. In addition, the OIG's interpretation of EO 12866 is not consistent with EPA's nearly three decades of implementation of that Executive Order, or our understanding of its docketing requirements. We do not believe it would

be appropriate, in response to a single OIG report, to change EPA's interpretation or implementation of an Executive Order that was issued by the White House and applies to multiple other federal agencies. EPA's current leadership is committed to maintaining the integrity of the EO 12866 process.

Despite the fact that EPA does not think the events described in the OIG Report would happen under current agency leadership, we will commit to updating our introductory Action Development Process training for incoming EPA senior leadership to explicitly address post-signature changes and the need for adequate documentation and records management. In addition, OP will meet with current EPA leadership to underscore the importance of documenting any verbal decisions and instructions that occur post-signature. Both of these activities could be undertaken by March 31, 2023, and would provide further assurance that the issues identified in the Report will not occur in the future.

cc: William Nickerson, Director, Office of Regulatory Policy Management, OP  
Michael Benton, Audit Follow-Up Coordinator, Office of the Administrator  
Nicole Murley, Acting Deputy Inspector General, OIG  
Lauretta Joseph, Director, Programs, Offices, and Centers Oversight, OIG  
Thane Thompson, Project Lead, OIG