



OVERSIGHT OF CLEAN AIR ACT PROGRAMS

PRESENTED BY EPA OFFICE OF INSPECTOR GENERAL

AAPCA Fall Business Meeting, September 27, 2023

AGENDA

- Overview of the Office of Inspector General
- Status of air-related oversight reports issued in fiscal years 22-23
- Ongoing work
- FY 24 plans



OFFICE OF INSPECTOR GENERAL

➤ WHAT IS AN OFFICE OF INSPECTOR GENERAL

- “[I]ndependent and objective” office
- Inspector general appointed “without regard to political affiliation and solely on the basis of integrity and demonstrated ability”

➤ WHAT IS OUR MISSION

- “[P]revent and detect fraud and abuse”
- “[P]romote economy, efficiency, and effectiveness”
- Help ensure ethical conduct and program integrity



OFFICE OF INSPECTOR GENERAL

➤ WHAT ARE OUR RESPONSIBILITIES

- “[C]onduct, supervise, and coordinate audits and investigations relating to the [EPA’s] programs and operations”
- “[C]onduct, supervise, or coordinate relationships between [the EPA] and other ... governmental ... and nongovernmental entities ... relating to [the detection and prosecution of] fraud and abuse in programs and operations administered or financed by [it]”
- “[P]rovide policy direction for ... audits and investigations relating to the [EPA’s] programs and operations
- “[P]rovide leadership and ... recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations”
- “Keep[] the [Administrator] and the Congress fully and currently informed about problems and deficiencies”



OFFICE OF INSPECTOR GENERAL

➤ **Inspector General Act of 1978**

- Timely access to ALL information
- Subpoena and law enforcement authority
- Request assistance from any Federal, State, or local government

➤ **Whistleblower laws, regulations, and rules**

- Whistleblower Protection Act of 1990 and Whistleblower Enhancement Protection Act of 2012
- 41 U.S.C. § 4712, *“Enhancement of contractor protection from reprisal for disclosure of certain information”*
- Presidential Policy Directive 19, *“Protecting Whistleblowers with Access to Classified Information”*

➤ **EPA regulations, manuals, orders, and other directives**

- Access to recipient’s information and interview personnel related to grant



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

1. **September 2023** - The EPA Needs to Address Increasing Air Pollution at Ports
2. **September 2023** - The EPA Must Improve Controls and Integrate Its Information System to Manage Fraud Potential in the Renewable Fuel Standard Program
3. **September 2023** - The EPA Should Enhance Oversight to Ensure that All Refineries Comply with the Benzene Fenceline Monitoring Regulations
4. **February 2023** - The EPA's Residential Wood Heater Program Does Not Provide Reasonable Assurance that Heaters Are Properly Tested and Certified Before Reaching Consumers
5. **January 2023** - The EPA Is Not on Track to Reach Its National Compliance Initiative Goals to Stop Aftermarket Defeat Devices and Tampered Vehicles
6. **March 2022** - The EPA Needs to Develop a Strategy to Complete Overdue Residual Risk and Technology Reviews and to Meet the Statutory Deadlines for Upcoming Reviews
7. **February 2022** - EPA's Title V Program Needs to Address Ongoing Fee Issues and Improve Oversight
8. **November 2021** - Total National Reported Clean Air Act Compliance-Monitoring Activities Decreased Slightly During Coronavirus Pandemic, but State Activities Varied Widely



AUDIT RESOLUTION PROCESS – KEY TERMS

- **Resolved** – The OIG agrees with the EPA’s corrective action plan to address the recommendation and the corrective actions are pending.
- **Completed** – The EPA has completed the agreed to corrective action.
- **Unresolved** – The EPA and the OIG have not reached agreement on the recommendation or the corrective action plan to address the recommendation.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA Needs to Address Increasing Air Pollution at Ports

- **Resolved** - corrective action is pending for EPA to assess the air-monitoring network around ports and in near-port communities and create a plan to enhance the air-monitoring network where any gaps are identified is resolved.
- **Unresolved** – the OIG and EPA have not reach agreement on our recommendation for EPA to Set quantifiable performance measures for the Ports Initiative, including a plan for identifying the measures' baselines.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA Must Improve Controls and Integrate Its Information System to Manage Fraud Potential in the Renewable Fuel Standard Program

- **Resolved** - Corrective actions are pending for EPA to:
 - Upgrade program's controls to ensure compliance with key regulatory requirements and develop a process to verify RIN data entered in the EPA Moderated Transaction System.
 - Develop a process to reduce the likelihood of quality assurance program auditor conflicts of interest; communicate requirements, expectations, and consequences to program auditors to minimize the likelihood that invalid RINs are verified; and track audit firm consulting services.
 - Integrate its system to facilitate oversight of RFS rules and regulations.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA Should Enhance Oversight to Ensure that All Refineries Comply with the Benzene Fenceline Monitoring Regulations

- **Resolved** - Corrective actions are pending for EPA to:
 - Provide guidance to delegated authorities on what constitutes a violation of the regulations and how to identify gaps in refinery-submitted data.
 - Develop a strategy to address refineries that fail to reduce their benzene concentrations after an exceedance of the action level.
 - Ensure that monitoring plans that rely solely on modeling are appropriately amended to incorporate additional monitoring.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA's Residential Wood Heater Program Does Not Provide Reasonable Assurance that Heaters Are Properly Tested and Certified Before Reaching Consumers

- **Complete** - EPA has completed action to define roles and responsibilities between EPA offices for oversight of the program.
- **Resolved** - Corrective actions are pending for EPA to:
 - Develop a plan to demonstrate whether certain test methods comply with the NSPS for residential wood heaters
 - Clarify certification test report expectations in upcoming rule revisions
 - Develop a reliable certification test method based on real-world conditions
 - Establish mechanisms to promote independence between emission testing labs and third-party certifiers
- **Unresolved** – the OIG and EPA have not reach agreement for EPA develop internal controls to improve the certification process and oversight, including to periodically observe certification testing.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA Is Not on Track to Reach Its National Compliance Initiative Goals to Stop Aftermarket Defeat Devices and Tampered Vehicles

- **Complete** – EPA has completed action to develop regional guidance.

- **Resolved** - Corrective actions are pending for EPA to:
 - Update the NCI strategic plan to address unforeseen challenges
 - Include quantifiable deliverables in the NCI strategic plan
 - Work with the Office of General Counsel to release enforcement data to the states, as appropriate
 - Overcome barriers to voluntary state efforts that complement the EPA’s work



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

The EPA Needs to Develop a Strategy to Complete Overdue Residual Risk and Technology Reviews and to Meet the Statutory Deadlines for Upcoming Reviews

- **Complete** – EPA has completed action to conduct workforce analysis to determine the staff and resources needed to meet statutory RTR and TR deadlines is complete.
- **Resolved** - Correction action is pending for EPA to develop and implement a strategy to conduct RTRs and TRs by the statutory deadlines, as well as all overdue reviews in as timely a manner as practicable.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

EPA's Title V Program Needs to Address Ongoing Fee Issues and Improve Oversight

- **Complete** – EPA has completed actions to:
 - Provide recurring training on Clean Air Act Title V fee laws and regulations to permitting agencies.
 - Develop and implement a plan to address declining Clean Air Act Title V revenues.
 - Update guidance to require regions to establish time frames for permitting authorities to complete corrective actions in program and fee evaluation reports and clear, escalating consequences if timely corrective actions are not completed.
 - Update the Clean Air Act Title V guidance documents to establish criteria for when regions must conduct Title V fee evaluations and require a minimum standard of review for fee evaluations.
 - Identify and make available the regional resources and expertise necessary to conduct fee evaluations

- **Resolved** – Corrective action is pending for EPA to provide training to regional staff on the updated Clean Air Act Title V fee guidance and how to conduct fee evaluations.



OIG AIR RELATED REPORTS – FISCAL YEARS 22-23

Total National Reported Clean Air Act Compliance-Monitoring Activities Decreased Slightly During Coronavirus Pandemic, but State Activities Varied Widely

- **Complete** – EPA has completed actions to:
 - Develop and implement a plan to conduct outreach meetings in the communities where meetings did not occur during the pandemic because they either lacked or do not use virtual technologies.
 - Promptly develop and implement guidance regarding how oversight should be conducted for Superfund sites when travel or site access is limited.
 - Promptly develop and implement a policy to provide the necessary tools—such as appropriate testing, vaccination, and supplies—to safely deploy remedial project managers during a pandemic or other emergency.



ONGOING WORK

➤ [Audit of EPA's Clean School Bus Program Rebate Recipient's Use of Funds](#)

- Determine the extent to which the EPA ensures that the recipients of the 2022 EPA Clean School Bus Program rebates manage funding in accordance with federal requirements.

➤ [Evaluation of EPA's Selection of Recipients for Infrastructure Investment and Jobs Act Funding for Clean School Buses](#)

- Determine whether the EPA followed requirements for selecting recipients for the Infrastructure Investment and Jobs Act's Clean School Bus Program funds.

➤ [Audit of the EPA's Clean School Bus Program](#)

- Determine whether potential supply chain or production delays could impact the EPA's efforts to disburse and manage clean school bus program funds pursuant to section 71101 of the Infrastructure Investment and Jobs Act.

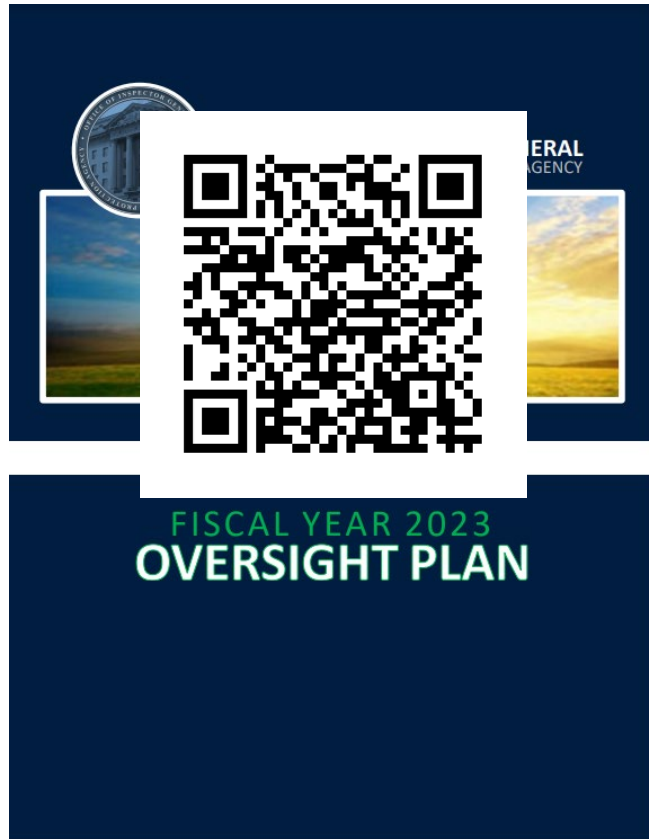
➤ [Audit of EPA's Oversight of State and Local Air Agencies Identification of SM-80 Facilities](#)

- Determine whether EPA oversight has assured that state and local agencies with large compliance-monitoring programs identify high-emitting synthetic minor facilities, known as SM-80s, in accordance with the EPA's Clean Air Act Compliance Monitoring Strategy



OFFICE OF INSPECTOR GENERAL

Annual Oversight Plan



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

FISCAL YEAR 2023
OVERSIGHT PLAN

IIJA Oversight Plan



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

FISCAL YEAR 2022
INFRASTRUCTURE
INVESTMENT AND JOBS ACT
OVERSIGHT PLAN—INAUGURAL
EDITION



QUESTIONS?



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