

EPA Response to 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

On March 31, 2020, the EPA's Office of Inspector General (OIG) issued a Management Alert related to the Agency's work to follow up on results of the most recent National Air Toxics Assessment (NATA), which identified a number of areas where cancer risks potentially could be elevated because of ethylene oxide emissions. The report recommended that the Agency:

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 have made multiple attempts to offer the OIG a corrective action plan, with milestones, in the interest of resolving this matter. Our proposed plan was developed based on two guiding principles.

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

As we noted in prior correspondence with the OIG, because NATA provides *screening level* results that have inherent uncertainties, additional work is necessary to more fully understand those potential risks and the emissions from facilities that contribute to them. We believe this follow-up work must be conducted prior to significant public outreach, so that we are providing residents information that is as detailed and up to date as possible. Public engagement based on outdated, preliminary, uncertain information is irresponsible and undermines the Agency's credibility.

Second, state leadership is essential to effectively address local air toxics issues like ethylene oxide. As part of the Agency's approach for addressing emissions of ethylene oxide in response to the most recent NATA, EPA is continuing to support state-led efforts not only to conduct additional, more refined investigations, but also to carry out appropriate outreach with affected communities. 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. As we noted in prior correspondence with the OIG, state-led efforts have already led to emission reductions and expected public health benefits in several areas.

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

Our initial corrective action plan (dated May 15, 2020) was developed in consultation with the OIG and was submitted only after we were told by OIG staff that the plan “could be accepted” and that we should “go ahead and send it up formally.” Based on a follow-up conversation with the OIG on July 20, 2020, we submitted an amended plan on August 7, 2020. After another conversation with the OIG on October 2, 2020, we submitted a further-amended plan on October 9, 2020 (see Attachment 1).

The latest version of our plan reflects specific changes requested by the OIG – including providing for more timely and more interactive (two-way) risk communication with potentially affected communities. In the latest plan, we pointed out to the OIG that we are committing to conduct the necessary additional technical work and appropriate outreach on a timeframe that is five months shorter than that included in our original plan. In addition, we noted we intend to explore a wide variety of communication tools to accomplish the goal of “interactive exchange,” recognizing that the appropriate first step is always to talk with local government officials and community leaders to determine what form of outreach will be most effective and most welcome in specific communities. We also noted that this outreach may need to occur virtually (through webinars, and virtual workshops, for example), because of current restrictions on in-person engagement due to COVID-19

The OIG informed OAR on October 28, 2020, that the proposed corrective actions do not fully address their recommendation and that, as such, their recommendation is unresolved. Nonetheless, OAR remains committed to its plan and intends to post the promised status reports to the Web shortly.

ATTACHMENT 1. EPA Corrective Action Plan (October 9, 2020)

Part 1. Conduct additional, more refined assessments of risk

a. Regions 2, 3, 4, 5, 7 and 8 (15 facilities/areas)^{1,2}

Milestone: Technical work has already been conducted or is well underway for these facilities/areas, including updating information on emissions, air quality impacts, and risks. EPA will post quarterly status reports on these additional, more refined assessments to the Agency's/Regions' Ethylene Oxide website(s) beginning in November 2020. Each status report will provide a summary of the work completed and the work planned for each facility/area, along with relevant milestones and dates.

b. Region 6 (nine facilities/areas)

Milestone: EPA Region 6 has begun work with the states of Texas and Louisiana on facility/area-specific technical assessments. EPA will post quarterly status reports on the assessments to the Agency's/Region's Ethylene Oxide website(s) beginning in November 2020. Each status report will provide a summary of the work completed (including, as appropriate, updated information) and the work planned for each facility/area, along with relevant milestones and dates.

c. Regions 2 – 8 (24 facilities/areas)

Longer-Term Milestone: Additional, more refined assessments have already been conducted or are well underway for the one facility in Region 2, four facilities in Region 3, three facilities in Region 4, four facilities in Region 5, two facilities in Region 7 and one facility in Region 8. Please note that this work can consist of many different activities and can require coordination with state environmental agencies and other federal agencies. For example, in Region 4, one facility is the subject of a recent EPA risk and technology review and associated rulemaking. The other two Region 4 facilities have had additional emission controls added and are the subject of a Georgia EPD monitoring study with support from the Region. The Agency for Toxic Substances and Disease Registry (ATSDR) is also performing health consultations for the communities around these two facilities and providing health education. EPA will provide ATSDR technical assistance as needed. In Region 6, EPA will work with the states of Texas and Louisiana to conduct additional, more refined technical assessments for the nine facilities in Region 6 as expeditiously as possible, but no later than May 31, 2021.

For all 24 facilities/areas, the additional, more refined assessments will be conducted and completed on a timely, rolling basis with the expectation that assessments for many facilities/areas will be completed well before May 31, 2021.

Part 2. Conduct outreach to affected communities

a. Regions 2, 3, 4, 5, 7 and 8 (15 facilities/areas)

¹ The facilities/areas referenced in this corrective action plan are those identified in Appendix A of the March 31, 2020, Management Alert.

² In some Regions, the work referenced here may be conducted by EPA or a non-EPA party, such as state environmental agencies or the Agency for Toxic Substances and Disease Registry (ATSDR).

Milestone: Public outreach (including interactive outreach) has already occurred or is planned for these facilities/areas. For example, state-led (and EPA-assisted) public meetings were held in 2018 or 2019 in Regions 4, 5, 7, and 8. Region 2 was forced to cancel a planned in-person public meeting in Puerto Rico because of COVID-19 and is reworking its outreach plans. In Region 3, West Virginia has requested that the Region take the lead in community outreach; the Region expects to begin outreach by sharing the findings of technical analyses once that work is complete (in up to three months). In Pennsylvania, the state remains the lead on addressing ethylene oxide from the Braun facility, which recently received a new state operating permit and for which the state provided a 30-day public comment period and the opportunity for a public hearing. 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 in November 2020. Each status report will provide a summary of the outreach completed and the outreach planned for each area, along with relevant milestones and dates.

b. Region 6 (nine facilities/areas)

Milestone: EPA Region 6 will work with the states of Texas and Louisiana, based on the wishes of those states and in accordance with local directives related to COVID-19, to explore appropriate communication tools and assist the states in developing facility/area-specific outreach information. EPA will post quarterly status reports of outreach activities, including descriptions of this work, to the Agency’s/Region’s Ethylene Oxide website beginning in November 2020. Each status report will provide a summary of the outreach completed and the outreach planned for each area, along with relevant milestones and dates.

c. Regions 2 – 8 (24 facilities/areas)

Longer-Term Milestone: Public outreach (including interactive outreach) has already been conducted or is planned for the one facility in Region 2, four facilities in Region 3, three facilities in Region 4, four facilities in Region 5, two facilities in Region 7 and one facility in Region 8, and will be summarized in the November 2020 status report. In Region 6, EPA will support the states of Texas and Louisiana in their efforts to conduct and complete initial public outreach, based on the wishes of the states, for the nine facilities/areas as expeditiously as possible, but no later than May 31, 2021.

For all 24 facilities/areas, we will support the states in their outreach, based on the states’ outreach plans, that provides interactive (i.e., two-way) communication with affected communities. Additionally, we will consider a wide variety of communication tools (including Web content, virtual webinars, and virtual workshops), recognizing that the appropriate first step is always to talk with local government officials and community leaders to determine what form of outreach will be most effective and most welcome. Note, this public outreach will be conducted and completed on a timely, rolling basis, based on the wishes of the states, with the expectation that outreach for many facilities/areas will be completed well before May 31, 2021.