



WASHINGTON, D.C. 20460

September 19, 2024

**MEMORANDUM**

**SUBJECT:** Response to the Office of Inspector General Final Report: *"The EPA Did Not Ensure that Two of the Largest Air Oversight Agencies Identified and Inspected Potentially Significant Sources of Air Pollution."* Report No. 24-P-0049, July 24, 2024

**FROM:** David M. Uhlmann, Assistant Administrator  
Office of Enforcement and Compliance Assurance

Earthea Nance, Regional Administrator  
Region 6

Martha Guzman, Regional Administrator  
Region 9

**TO:** Michael D. Davis, Director  
Environmental Investment and Infrastructure Directorate  
Office of Audit  
Office of Inspector General

The EPA's Office of Enforcement and Compliance Assurance (OECA), Region 6, and Region 9 appreciate the opportunity to provide you with a final response on the Office of Inspector General (OIG) report, *"The EPA Did Not Ensure that Two of the Largest Air Oversight Agencies Identified and Inspected Potentially Significant Sources of Air Pollution."* This response reflects the beneficial collaboration among OECA, Region 6, Region 9, and OIG staff to identify corrective actions to resolve the report's recommendations. We appreciate your staff's assistance and have provided corrective actions below.

As previously stated, OECA, Region 6, and Region 9 agree with the OIG on the importance of agency oversight of delegated agencies to ensure adequate implementation of their compliance monitoring programs implementing federal environmental laws and EPA regulations. In implementing our oversight responsibilities, we carry out a number of activities, including the State Review Framework (SRF) and monitoring delegated agency compliance with the guidance document, the EPA's Clean Air Act Stationary Source Compliance Monitoring Strategy (CAA CMS). As the OIG is aware, the CAA CMS does not direct but provides guidance and requests delegated agencies to take such guidance into account when developing their own CAA CMS plans. As such, the CAA CMS provides delegated agencies with significant flexibility to implement CMS plans, including the opportunity to work with the

EPA regional offices in developing agreed upon alternative approaches to address local concerns and priorities.

The table below provides corrective actions resolving the OIG report’s recommendations, including estimated timeframes for completion.

**Table of Corrective Actions**

<b>REC #</b>	<b>OIG Report Recommendations</b>	<b>Corrective Actions</b>	<b>Completion Dates</b>
1	<p>OECA                      Recommendation:                      Conduct in-depth evaluations to monitor the performance of EPA regional offices’ oversight of delegated agencies’ implementation of the EPA’s CAA CMS.</p>	<p>To complement the wide range of ongoing, routine activities monitoring the performance of the EPA regional offices’ oversight of delegated agencies’ CMS implementation, OECA will perform in-depth evaluations of regional oversight with findings documented in a written report. Consistent with the SRF cycle, an in-depth evaluation will be conducted once every five years. The findings from SRF reviews will help identify potential concerns with regional oversight warranting further analysis through the in-depth evaluation. With the current SRF cycle of FY24-28, the initial in-depth evaluation will be complete by September 30, 2028. In addition, in-depth evaluations of individual regions will be conducted on a more frequent basis upon detection of risk factors among agencies within a particular region. These factors could include unresolved incomplete data reporting, not timely addressing agencies’ inability to meet their CMS plans, and agencies’ inspections being deemed insufficient to fully evaluate facility compliance.</p>	October 1, 2028

REC #	OIG Report Recommendations	Corrective Actions	Completion Dates
2	<p>OECA Recommendation: Ensure that Region 9 develops a plan to conduct CAA state reviews of California's largest air quality management districts every five years, in accordance with the SRF Compliance and Enforcement Program Oversight, SRF Reviewer's Guide.</p>	<p>Rather than a complete SRF review of the largest districts every five years, OECA will work with Region 9 to annually conduct Data Metric Analysis (DMA) of the largest air quality management districts. A DMA contains metrics on timeliness of data reporting, compliance monitoring coverage, violation discovery rates, and timeliness in addressing violations. The CMS metrics relate to agency commitments in CMS plans and provide for SRF findings based on those agency-specific commitments. Conducting a DMA is a critical analytical step in the SRF review process, and is used to determine what program areas may need additional focus for discussion with delegated agencies.</p> <p>While a complete SRF review focuses on a single year of data once every five years, incorporating DMAs into regular oversight meetings with the largest local air districts annually will allow EPA to provide more constant oversight of those largest districts. This will also allow the region to balance its resources to conduct its regular SRF reviews and ensure adequate oversight of the other local air agencies in the state.</p>	October 1, 2025
3	<p>OECA Recommendation: Formalize an SRF recommendation resolution process to ensure that the EPA's senior managers and delegated agencies are accountable for the resolution of SRF recommendations.</p>	<p>Along with the established process to track, close, and elevate recommendations for the SRF program, EPA's internal performance measure on implementation of SRF recommendations ensures they are tracked at the highest levels of management at the agency. During quarterly reviews, regions report to their Regional Administrators on their individual progress compared to their established targets, and OECA reports on national progress to its Assistant Administrator. While EPA has exceeded its targets for closing SRF recommendation, OECA agrees to complete an in-depth review of overdue SRF recommendations and determine if there are outstanding recommendations that may require elevation.</p>	Complete

REC #	OIG Report Recommendations	Corrective Actions	Completion Dates
4	<p>OECA Recommendation: In collaboration with OGC and OAR, determine to what extent the CAA authorizes the EPA to require periodic identification and inspection of nonmajor stationary sources such as SM-80s by states, local government agencies, federally recognized Indian tribes, and U.S. territories. Document the EPA's determination and exercise such authority, if applicable, as the EPA deems appropriate.</p>	<p>With collaboration among OECA, OGC and OAR, the EPA will determine to what extent the CAA authorizes the agency to require periodic identification and inspection of nonmajor sources such as SM-80s by delegated agencies. We will thereafter document the determination and exercise such authority, if applicable and as deemed appropriate.</p>	April 1, 2025
5a	<p>OECA Recommendation: Communicate the EPA's expectations for the EPA regions and states, local government agencies, federally recognized Indian tribes, and U.S. territories to identify, inspect, report, and verify data for SM-80 sources.</p>	<p>In addition to making the SM-80 data publicly available on the Enforcement and Compliance History Online (ECHO) database through SM-80 classification on ECHO's Air Dashboard, Air Facility Search, and Clean Air Tracking Tool, OECA will clarify agency guidance on identifying, inspecting, reporting, and verifying data for SM-80 sources to make our expectations clear. OECA will do so by providing additional instruction and information through multiple channels such as the National Targeting Center Newsletter, the annual Data Verification Memorandum, the SRF CAA Plain Language Guidance, ECHO's Data Entry Requirements, and the ICIS-Air Data Element Dictionary.</p>	October 1, 2025

REC #	OIG Report Recommendations	Corrective Actions	Completion Dates
5b	<p>OECA Recommendation: Communicate steps the EPA will take, if any, to periodically identify and inspect SM-80s if these entities do not meet such expectations.</p>	<p>The EPA has recently updated our enforcement policy reaffirming the shared commitment with our state partners to work together to protect human health and the environment while remaining ultimately responsible for ensuring our co-regulators are appropriately implementing delegated programs. We recently communicated our updated policy in two memoranda: <i>Principles and Best Practices for Oversight of State Implementation and Enforcement of Federal Environmental Laws</i> (February 17, 2023) and <i>Effective Partnerships Between EPA and the States in Civil Enforcement and Compliance Assurance</i> (June 21, 2023).</p> <p>In these memoranda, we clarified our position as to when we may choose to take direct action under our concurrent enforcement authority. We also clarified and communicated best practices to follow during the joint inspection planning process. As the agency states, in day-to-day discussions and through regularly scheduled meetings, EPA and our partners discuss work-sharing and inspection planning to ensure we make the best use of our resources and expertise. Such coordination includes discussion on how to use combined resources to meet CMS inspection coverage expectations, including for SM-80s, as well as consideration of implementing regionally approved CMS alternative plans.</p>	Complete
5c	<p>OECA Recommendation: Clearly define SM-80 sources.</p>	<p>As we complete the corrective action for Recommendation 5a, we will use the same channels to clarify the CAA CMS SM-80 definition. We will provide definitions for both synthetic minor sources and SM-80 sources consistent with the agreed-upon definitions included in the OIG final report.</p>	October 1, 2025

REC #	OIG Report Recommendations	Corrective Actions	Completion Dates
6	<p>OECA  Recommendation:  Establish routine training to reinforce EPA guidance and policies regarding delegated Agency requirements and responsibilities to identify and inspect SM-80 sources. Training is to include coordination among EPA regional managers, including division directors, deputy directors, branch chiefs, section chiefs, managers, and staff in OAR and OECA.</p>	<p>We will establish routine training for EPA headquarters and regional managers and staff involved in CAA CMS implementation and the identification, inspection, and reporting of SM-80s to reinforce EPA guidance regarding delegated Agency requirements and responsibilities to identify and inspect SM-80 sources. This training will be provided during regularly scheduled meetings/calls such as for the Air Enforcement Managers, the National Targeting Center CAA Community of Practice, the ICIS-Air System Administrators, and the OECA/OAQPS Quarterly Coordination Meeting.</p>	<p>October 1, 2025</p>
7	<p>Region 6  Recommendation:  In coordination with OECA and Texas Commission on Environmental Quality, determine a complete and accurate list of SM-80 sources in Texas and ensure that each CAA CMS plan includes a list of SM-80s along with an expected inspection date. This corrective action should be completed by August 2025.</p>	<p>This recommendation is contingent upon the EPA determination in Recommendation 4. If determined that EPA has the authority and EPA deems it is appropriate to require TCEQ to develop a list of SM-80 sources, Region 6 in coordination with OECA, will work with TCEQ to develop a plan to determine a complete and accurate list of SM-80 sources and update their future CAA CMS plans to include these sources.</p> <p>If EPA determines it does not have the authority or it is not appropriate to require TCEQ to develop a list of SM-80 sources in Texas, EPA will not implement this recommendation.</p>	<p>One year after completion of Recommendation 4, April 1, 2026</p>
8	<p>Region 9  Recommendation:  In coordination with OECA and the South Coast Air Quality Management District (SCAQMD), confirm that California's SCAQMD's list of SM-80 sources is complete and accurate and ensure that the district reports SM-80 data in the EPA's data systems by August 2025.</p>	<p>Upon completion of the corrective action for Recommendations 5a and 5c, specifically the clarification of the definition of synthetic minor sources and SM-80 sources, Region 9 will coordinate with SCAQMD to receive a list of SM-80 sources in SCAQMD.</p>	<p>One year after completion of Recommendation 5a and 5c or October 1, 2026, whichever is earlier</p>

REC #	OIG Report Recommendations	Corrective Actions	Completion Dates
9	Region 9 Recommendation: Collect and review California's SCAQMD's CAA CMS plan by October 2026 and biennially thereafter and ensure that each plan includes a list of SM-80 sources along with an expected inspection date.	Region 9 will request SCAQMD's CAA CMS plan be provided by October 1, 2026 and biennially thereafter and ensure the plan includes their identified SM-80 sources (upon receiving the definition in Recommendation 5c).	October 1, 2026

If you have any questions regarding this final response, please contact Loan Nguyen, OECA Audit Follow-up Coordinator at [nguyen.loan@epa.gov](mailto:nguyen.loan@epa.gov); Josephine Hah, Region 6 Audit Follow-up Coordinator at [hah.josephine@epa.gov](mailto:hah.josephine@epa.gov); Mendy Guan, Region 9 Audit Follow-up Coordinator at [guan.mendy@epa.gov](mailto:guan.mendy@epa.gov).

Cc: Jacqueline Robles Werner, OECA  
 Kellie Ortega, OECA  
 Genevieve Soule, OECA  
 Loren Denton, OECA  
 Melissa Schefski, OECA  
 Elizabeth Ragnauth, OECA  
 Bob Scinta, OECA  
 Michele McKeever, OECA  
 Lauren Jones, OECA  
 Daniel Klaus, OECA  
 Loan Nguyen, OECA  
 Wendy Wierzbicki, OIG  
 Cheryl Seager, Region 6  
 Margaret Osbourne, Region 6  
 Steve Thompson, Region 6  
 David Garcia, Region 6  
 Jeffrey Robinson, Region 6  
 Cynthia Kaleri, Region 6  
 Josephine Hah, Region 6  
 Cheree Peterson, Region 9  
 Amy Miller, Region 9  
 Kaoru Morimoto, Region 9  
 Roshni Brahmhatt, Region 9  
 Mendy Guan, Region 9