



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

THE INSPECTOR GENERAL

April 28, 2015

**MEMORANDUM**

**SUBJECT:** Response to Memorandum of April 6, 2015, on OIG Report No. 15-P-0099, *Quick Reaction Report: EPA Pesticide Inspections Must Resume in North Dakota to Determine Compliance and Protect Human Health and the Environment*, Issued February 23, 2015

**FROM:** Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

**TO:** Cynthia Giles, Assistant Administrator  
Office of Enforcement and Compliance Assurance

Shaun L. McGrath, Regional Administrator  
EPA Region 8

This response addresses your memorandum of April 6, 2015 (received April 16), responding to the subject quick reaction report. Quick reaction reports of the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) convey significant time-critical issues and recommendations to EPA management. The basis for the subject report was information provided by agency staff in discussions with OIG and in the official agency response of January 26, 2015 (attached). The report is factually accurate. Indeed, the official agency response reflects full agency agreement with all findings and recommendations.

Subsequent to your responding to our draft report and our issuing the final report, you provided information on the agency's Notice of Arrival review and state attempts to obtain federal credentials—information not provided in the official response and therefore not considered in our report. You also question our statement that “the failure to conduct inspections increases the risk that pesticides are not in compliance with federal law which could result in potential risks from toxics being undetected and adverse human health and environmental impacts occurring.” You stated you did so on the grounds that it “implies” a never-demonstrated connection between the absence of inspections and health impacts, “equates” to noncompliance, and “does not present a complete picture” of pesticide inspections in North Dakota.

This appears to represent a misunderstanding regarding the scope of our quick reaction report. The quick reaction report was not designed to address the “complete picture,” whether of health impacts, noncompliance or inspections. The report's limited objective was to identify “potential risks.” Federal inspections detect and deter violations of federal pesticide standards. The long-standing lapse of federal inspections in North Dakota—14 years in the case of producer establishments—does increase “potential risks” that pesticide violations will not be identified or corrected. Non-federally credentialed state inspections (we make no judgments about the quality of state inspections) do not, as your response agrees, “replace” federal inspections.

If you have any questions on this matter, please contact Carolyn Copper, Assistant Inspector General for Program Evaluation, at (202) 566-0829 or [copper.carolyn@epa.gov](mailto:copper.carolyn@epa.gov).

Attachment

cc: Lawrence Starfield, Principal Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance  
Suzanne Bohan, Acting Assistant Regional Administrator, EPA Region 8  
Lisa Lund, Director, Office of Compliance, Office of Enforcement and Compliance Assurance  
Gwendolyn Spriggs, Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance  
Wayne Anthofer, Audit Follow-Up Coordinator, EPA Region 8  
Nic Grzegozewski, Agency Audit Follow-Up Coordinator  
Charles Sheehan, Deputy Inspector General  
Aracely Nunez-Mattocks, Chief of Staff, OIG  
Alan Larsen, Counsel to the Inspector General  
Kevin Christensen, Assistant Inspector General for Audit  
Carolyn Copper, Assistant Inspector General for Program Evaluation  
Patrick Sullivan, Assistant Inspector General for Investigations  
Christine El-Zoghbi, Deputy Assistant Inspector General for Program Evaluation  
Jennifer Kaplan, Deputy Assistant Inspector General for Congressional and Public Affairs  
Jeffrey Lagda, Congressional and Media Liaison, OIG



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

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

January 26, 2015

**MEMORANDUM**

**SUBJECT:** EPA Comments on "Quick Reaction Report: Required Inspections of Pesticide Manufacturers and Importers in North Dakota Must be Resumed to Comply with Law and Protect the Public and Environment"

**FROM:** Lisa C. Lund, Director  
Office of Compliance

A handwritten signature in cursive script that reads "Lisa C. Lund".

**TO:** Jee Kim, Project Manager  
Office of Inspector General

We appreciate the opportunity to provide you with comments on an early draft of the subject report, and meeting with us to discuss them. We also appreciate your willingness to allow us to provide you with these revised comments, which replace our earlier submission on the draft quick reaction report. We agree that the Office of Inspector General (OIG) evaluation of EPA's oversight of state implementation of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) identified areas of concern and opportunities for improvement. We are committed to addressing the concerns raised in a timely manner.

Specifically, EPA agrees that a state inspection that is not conducted utilizing federal credentials does not replace a federal inspection. In an effort to address this concern, Region 8 has agreed to develop an import inspection plan for FY15 focusing inspections on importers with repeat noncompliance with emphasis on high-risk end use pesticides.

We also agree that North Dakota (ND) should have a Federal credentialed state inspector. While the quick reaction report says, "ND has not had one since 2012" Region 8 provided documentation that the last ND state inspector with federal credentials retired on November 27, 2013. In accordance with the 2015 Cooperative Agreement, ND agreed to add at least one Federal credentialed inspector and has orally agreed to add two additional Federal inspectors for a total of three. Consistent with this agreement, one state inspector, as part of his Federal credential training, was accepted and will attend the Urban FIFRA Issues Pesticide Inspector Residential Training class being held in Nevada the week of February 23, 2015.

EPA is concerned with the use of the term "required inspections" throughout the report (including the title). While EPA has a responsibility for determining compliance with FIFRA

regulations at producer establishments and for pesticide imports, EPA would like the OIG to note there is no statutory or regulatory requirement regarding how that compliance determination is made or specific requirements related to the type or frequency of inspection in these areas. Accordingly, we ask that the term "required" as it applies to inspections be removed from the draft report.

We note that the recommendations in the draft report have been revised per your email of January 20, 2015, and appreciate the opportunity to now comment on them. The EPA Regional Administrator for Region 8 agrees with the revised recommendations 1-3. The Office of Enforcement and Compliance Assurance (OECA), agrees with revised recommendation 4. Planned corrective action completion dates are:

1. Recommendation 1 - Region 8 will immediately initiate coordination with North Dakota and ensure FY15 applicable PEIs and import inspections are conducted by Region 8 inspectors or federal credentialed ND inspectors. Corrective action completion date: September 30, 2015.
2. Recommendation 2 - Establish and submit a multi-year inspection plan. Corrective action completion date: April 15, 2015.
3. Recommendation 3 - List the number of PEIs and import inspections in ND's EOY report. Corrective action completion date March 15, 2016.
4. Recommendation 4 - OECA will review Region 8's FY15 ND EOY report. Corrective action complete date is April 15, 2016.

We will work with Region 8 to identify additional opportunities for improvement regarding inspections under FIFRA within the Region and the state of ND. If you have any questions concerning this response, please feel free to contact Gwendolyn Spriggs, the OECA Audit Liaison, at 202-564-2439.

cc: Gwendolyn Spriggs  
Mamie Miller  
Elizabeth Vizard