



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

MAY 14 2012

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Response to Final Audit Report, *Controls Over State Underground Storage Tank Inspection Programs in EPA Regions Generally Effective*, Report Number 12-P-0289

FROM: Mathy Stanislaus
Assistant Administrator

A handwritten signature in black ink, appearing to read "Mathy Stanislaus".

TO: Arthur A. Elkins, Jr.
Inspector General

Thank you for the opportunity to comment on the final report titled, *Controls Over State Underground Storage Tank Inspection Programs in EPA Regions Generally Effective*, Report Number 12-P-0289, dated February 15, 2012. We are in general agreement with the findings and accept your recommendation, and we will complete the corrective action as required. Our comments on the report and recommendation are below.

Comments on the Report

We appreciate that you incorporated the majority of our comments into the final report. However, we want to clarify one point to help you better understand the underground storage tank (UST) program. All states, with and without state program approval (SPA), have primary responsibility for implementing their underground storage tank programs. These responsibilities include meeting the three year inspection mandate of EPAct, but are not exclusive to that requirement. In the context of SPA, state programs are approved as a whole, not as individual components of a broader program. As a result, EPA does not approve only a state's inspection program per se; we approve a state's entire UST program, which includes the required inspection and enforcement authorities of an inspection program.

Specific Recommendation and Response

Recommendation - The Assistant Administrator for Solid Waste and Emergency Response [OSWER]:

Require EPA and states to enter into MOAs [Memorandums of Agreement] that reflect program changes from the 2005 Energy Policy Act and address oversight of municipalities conducting inspections.

Response - As stated in our draft response, we agree with the recommendation that EPA and states enter into MOAs, which reflect changes from the 2005 Energy Policy Act (EPA Act) and address oversight of municipalities conducting inspections. EPA primarily identifies state responsibilities through the annual grant workplan. We will, in addition, implement the recommendation regarding MOAs. In fact, we have already initiated the process to develop a template regions can use to enter into these MOAs.

With regards to timing, as identified to you in our draft response, we are currently updating the UST regulations and recognize that certain proposed changes to the existing regulations may cause states to amend different aspects of their programs. As a result, we will ensure this recommendation for MOAs is implemented concurrently to the state SPA reapplication process outlined in the final regulations. To be clear, we recognize the importance of having updated and clear MOAs for all SPA and non-SPA states and territories. Our intent is that all states and territories have updated MOAs in place no later than the state SPA reapplication timeframe identified in the final regulations. Our proposed regulations require approved state programs reapply for SPA within three years of the regulations becoming final. By August 1, 2013, by which time the regulations are expected to be finalized, we will share the specific date on which the MOAs will be in place.

Should you have any questions regarding this response, please contact Carolyn Hoskinson, Director, Office of Underground Storage Tanks, at 703-603-9900.