



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

OFFICE OF
INSPECTOR GENERAL

June 20, 2019

MEMORANDUM

SUBJECT: Management Implication Report Concerning the EPA's Process for Certifying that EPA Attorneys Possess an Active Bar Membership

FROM: Helina Wong, Assistant Inspector General
Office of Investigations

A handwritten signature in black ink, appearing to read "Helina Wong", is written over the "FROM:" line.

TO: Donna J. Vizian, Principal Deputy Assistant Administrator
Office of Mission Support

Matthew Z. Leopold, General Counsel
Office of General Counsel

Purpose: The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) has identified a control issue concerning the EPA's annual process of confirming that its attorneys maintain an active bar membership. This issue was discovered during an investigation of a now retired Senior Executive Service-level EPA attorney who for decades represented himself or herself to EPA as an active member of a state bar but whose license in fact had been suspended. This report addresses whether controls for the agency's process provide a reasonable assurance that each EPA attorney is properly licensed by a state (or equivalent) bar.

Background: In 2019 the EPA OIG was referred a matter concerning the bar membership of the former Senior Executive Service EPA attorney. In July 2006, the EPA issued its first agencywide memorandum directing all attorneys to self-certify that they were active bar members. The agency's memorandum, reissued annually and most recently in 2018, requires all general attorneys or patent attorneys at the EPA to certify each year that they maintain an active membership in the bar of at least one state, the District of Columbia, a U.S. territory or the commonwealth of Puerto Rico. (Attachments 1 and 2) The process does not include a step for verifying the self-certification forms. EPA attorneys must complete and submit self-certification forms to the attorney's designated collection official by July 31 of each year. The self-certification forms are required to be retained by each respective office that employs attorneys for the entirety of the attorney's tenure. If an attorney transfers to another office within the EPA, the forms will be transferred to and retained by the new employing office. A lapse in an attorney's active bar membership for any reason must be reported to his or her management in writing. The notification must provide the reason(s) why the membership lapsed and what will be required to reinstate active status.

Problem Identified: In the case noted above, inadequate controls enabled the employee to continue working as an EPA attorney for years without an active law license. Specifically, the individual was hired by the EPA in 1979 as an attorney and held that designation at the agency until 2017, when the

person retired. In 1985, the attorney's law license was suspended and was not reinstated during the remainder of the individual's tenure at the EPA. The self-certification process, lacking bar membership verification controls, allowed the attorney to self-certify maintenance of an active law license by simply filling out the form.

During the course of the OIG's investigation of this individual, the EPA conducted record searches and found a total of eight Attorney Certification forms, from 2006 to 2013. All the forms included the same misrepresentation, stating: "I hereby certify that I am an active member of the bar....," and also provided different and incorrect bar license numbers. The agency could not locate any Attorney Certification forms for this individual covering the years 2014–2017. The OIG independently verified with the attorney's state bar that the individual's law license had been suspended since 1985.

Based on the foregoing, my office has identified a control issue in the process so that the agency may take whatever steps it deems appropriate to ensure compliance with the active bar membership requirement.

Should you have any questions regarding this report, please do not hesitate to contact me at (202) 566-2841 or Assistant Special Agent in Charge Mike Smith at (202) 566-9686.

Attachments:

1. Initial Attorney Certification Memo – 2006
2. Attorney Certification Memo – 2018

cc: Kevin Christensen, Assistant Inspector General for Audit and Evaluation