

U.S. Environmental Protection Agency (EPA)

Office of Inspector General (OIG)

Impact of EPA's Revised Worker Protection Standard Requirements

28th Annual Midwest Stream Forum for
Agricultural Worker Health

September 12, 2018

No Conflicts to Disclose



OFFICE OF INSPECTOR GENERAL

U.S. Environmental Protection Agency

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Agenda

- OIG: Background, Mission, Values, Related Work
- Revised Worker Protection Standard Implementation: Objectives, Findings, Recommendations, and Status
- Revised Worker Protection Standard Training Notice of Availability: Objectives, Findings, Status
- Discussion on Agricultural Worker Health: Evaluation or Oversight Needs



OIG Background

- ❑ The Office of Inspector General (OIG) is an independent office within EPA created pursuant to the Inspector General Act of 1978, as amended to:
 - Conduct and supervise audits, evaluations and investigations relating to the programs and operations of their agencies
 - Review existing and proposed legislation and regulations relating to the programs and operations of their agencies
 - Provide leadership and coordination, and recommend policies for activities designed to promote economy, efficiency, and effectiveness, and to prevent and detect fraud and abuse
 - Provide a means for keeping the head of the establishment and Congress fully and currently informed about problems and deficiencies, and the necessity for and progress of corrective actions



OIG Mission and Goals

VISION

Be the premier oversight organization trusted to speak the truth and promote good governance.

MISSION

Conduct independent audits, evaluations and investigations; make evidence-based recommendations to promote economy, efficiency and effectiveness; and prevent and detect fraud, waste, and abuse for the U.S. Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board.

GOALS

Contribute to improved EPA and CSB programs and operations protecting human health, the environment, and enhancing safety.

Conduct audits, evaluations and investigations that enable the EPA and CSB to improve business practices and accountability.

Improve OIG processes, resource allocation and accountability to meet stakeholder needs.

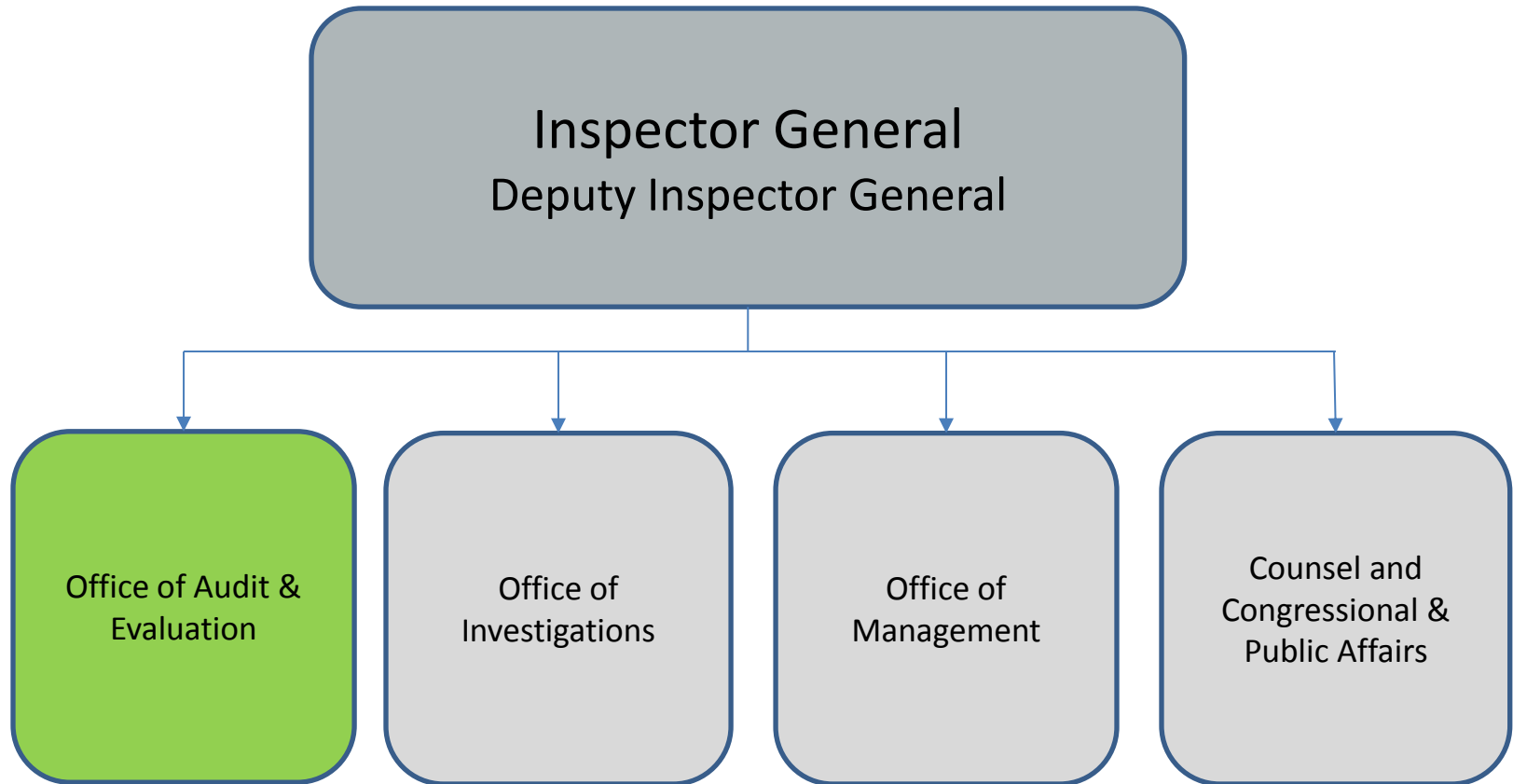


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OIG Organization



Office of Audit & Evaluation

Office of Investigations

Office of Management

Counsel and Congressional & Public Affairs

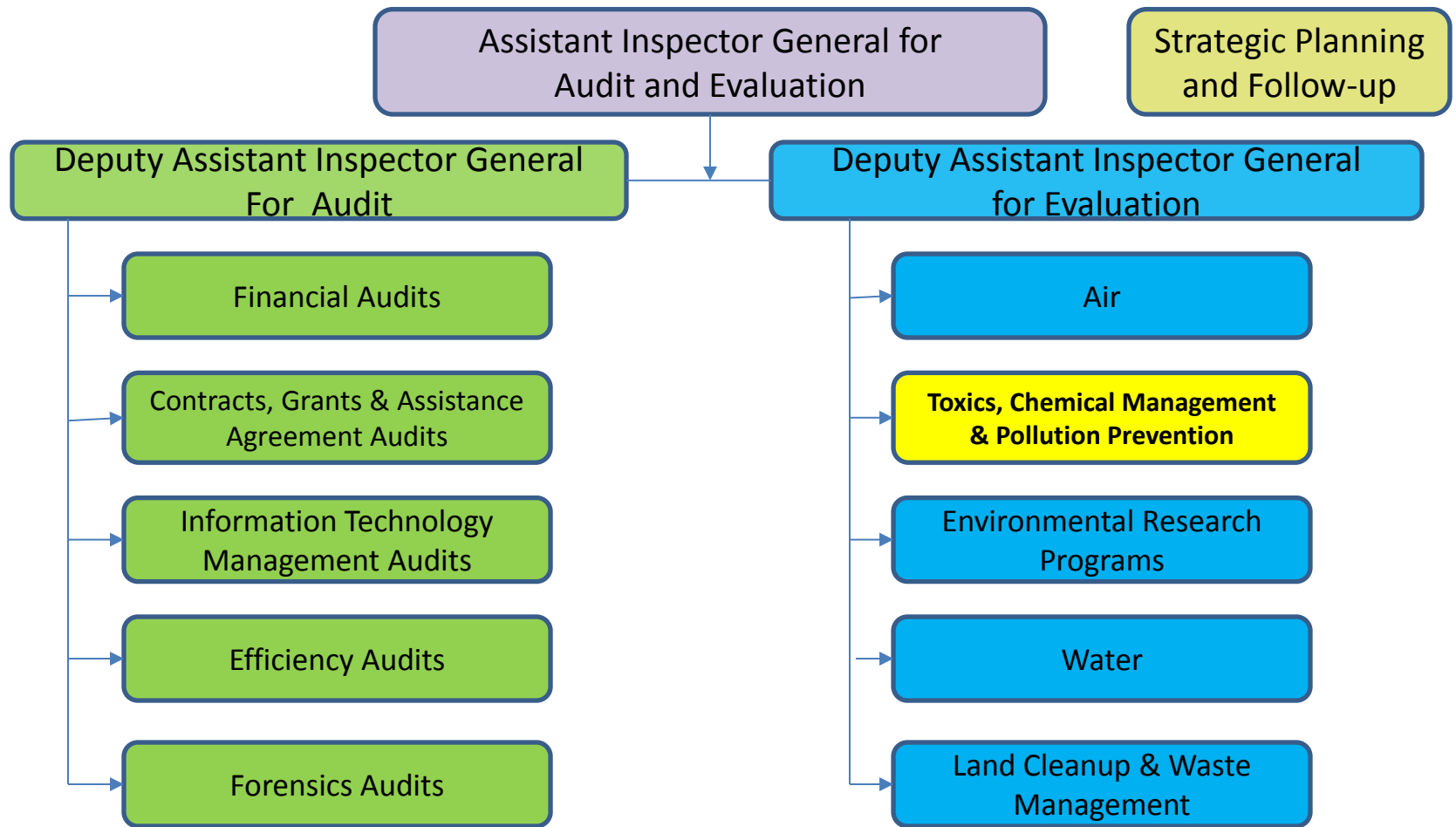


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OIG Evaluation and Oversight

- Projects may be self-initiated, derived from Hotline leads, or Congressional requests
- Project Report recommendations are non-binding
 - All unimplemented recommendations are reported to Congress
- All work is publicly available on the EPA's OIG Website
 - EPA responses to OIG findings and recommendations are attached to issued reports
- OIG results are presented in Congressional hearings and briefed to Congressional staff, upon request



Federal Insecticide Rodenticide and Fungicide Act (FIFRA)

- FIFRA provides the EPA authority to regulate the registration, sale and use of pesticides.
- The EPA will register a pesticide if the applicant show that the pesticide will not generally cause unreasonable adverse effects on human health or the environment
- Under the authority of FIFRA, the EPA established the Worker Protection Standard (WPS) in 1992 aimed at reducing the risk of pesticide poisoning and injury among millions of agricultural workers and pesticide handlers.
- Under FIFRA, states may receive primary enforcement responsibility (primacy) for pesticide use enforcement.



OIG Oversight of EPA FIFRA Programs

- EPA Needs to Evaluate the Impact of the Revised Worker Protection Standard on Pesticide Exposure Incidents, OIG Report No. 18-P-0080, February 15, 2018. <https://www.epa.gov/office-inspector-general/report-epas-oversight-state-pesticide-inspections-needs-improvement-better>
- EPA Can Better Manage State Pesticide Cooperative Agreements to More Effectively Use Funds and Reduce Risk of Pesticide Misuse, OIG Report No. 18-P-0079, February 13, 2018. <https://www.epa.gov/office-inspector-general/report-epa-needs-evaluate-impact-revised-agricultural-worker-protection>
- EPA Can Better Reduce Risks from Illegal Pesticides by Effectively Identifying Imports for Inspection and Sampling, OIG Report No. 17-P-0278, September 28, 2017. <https://www.epa.gov/office-inspector-general/report-epa-can-better-reduce-risks-illegal-pesticides-effectively>



OIG Oversight of EPA FIFRA Programs

- Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations, OIG Report No. 17-P-0053, December 12, 2016. <https://www.epa.gov/office-inspector-general/report-additional-measures-can-be-taken-prevent-deaths-and-serious-injuries>
- EPA's Oversight of State Pesticide Inspections Needs Improvement to Better Ensure Safeguards for Workers, Public and Environment Are Enforced, OIG Report No. 15-P-0156, May 15, 2015. <https://www.epa.gov/office-inspector-general/report-epas-oversight-state-pesticide-inspections-needs-improvement-better>



Worker Protection Standards at EPA

- History
- Objective Of Worker Protection Standards
- Environmental and Human Health Threats



History of Worker Protection Standard



- EPA promulgated WPS in 1974 under Federal Insecticide Fungicide Rodenticide Act
- In November 2015, issued a final rule that revised WPS
- Revised 2015 rule required agricultural establishments to comply with most requirements by January 2, 2017



History of Worker Protection Standard

- December 21, 2016: National Association of State Departments of Agriculture (NASDA) and the American Farm Bureau Federation submitted a petition to delay WPS
- January 13, 2017: EPA denies petition
- February 21, 2017: NASDA submits subsequent petition to request the extension of all the revised WPS until January 2, 2018
- May 11 2017: agency announced it would grant NASDA's petition to extend implementation of WPS requirements



Objective of Worker Protection Standard

- To reduce the risk of injury or illness resulting from use and contact with pesticides
 - WPS expected to protect more than 2 million agricultural workers and pesticide handlers who work on 600,000 agricultural establishments



EPA OIG Evaluation #1

U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

*Ensuring the safety of chemicals
Compliance with the law*

EPA Needs to Evaluate the Impact of the Revised Agricultural Worker Protection Standard on Pesticide Exposure Incidents

Report No. 18-P-0080

February 15, 2018



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EPA OIG Evaluation #1

- Evaluation was done to determine the adequacy of the U.S. Environmental Protection Agency's (EPA's) management controls
- Focused on training resources, educational materials and outreach materials



Delays to WPS Implementation

- December 21, 2017: EPA reversed the decision with a Federal Register notice that the compliance dates in the November 2, 2015 rule remain in effect and that the agency does not intent to extend them.
- Requirements that will not be in effect – worker and handler pesticide safety training materials and expanded content.



Scope and Methodology

- Conducted our work from March through September 2017
- Met with EPA Pesticides and Enforcement and Compliance staff
- Met with EPA Regional Offices covering Southeastern, Midwest, and Western states
- Met with state program officials in California, Minnesota, North Carolina
- Met with stakeholders Farmworker Justice, Migrant Clinicians Network National Institute for Occupational Safety and Health, and Pesticide Educational Resources Collaborative
- Reviewed EPA policies and procedures, online sources and other related literature



Results of Evaluation

- EPA had policies and procedures in place to implement the revised Agricultural WPS.
- EPA provided training prior to January 2, 2017
- However, some controls were not fully adequate
 - Essential educational and implementation materials were not available by January 2, 2017
 - WPS Inspection Manual and How To Comply Manual were not available during training or outreach activities in 2016.



Results of Evaluation

- EPA did not have the ability to collect agricultural pesticide exposure incident data.
- EPA relied on information provided during pesticide re-evaluations and from voluntary databases



Noteworthy Best Practice

- California law requires physicians to report any illness known or suspected to be caused by pesticide exposure
 - California conducts an investigation for each exposure and collects and evaluates incident reports
 - California's program makes illness monitoring a priority



Recommendations

- Recommendation 1 -Establish compliance dates for WPS implementation (*Rescinded*)
- Recommendation 2 -Establish a system to collect and track pesticide exposure incidents among Agricultural Worker Protection Standard target populations to enable measurement of the standard's impact and effect



Conclusions

- Essential WPS educational and implementation materials were not available by January 2, 2017
- EPA granted a request to delay the revised WPS but reversed its decision on December 21, 2017
- Delays to WPS affect more than 2 million agricultural farm workers and pesticide handlers
- EPA does not have a method to evaluate the revised rule's impact on occupational pesticide exposure incidents



EPA OIG Evaluation #2



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Ensuring the safety of chemicals

EPA's June 2018 Issuance of the Delayed Notice of Availability of Farm Worker Protection Training Materials Will Reduce Risks of Injury and Illness

Report No. 18-P-0238

August 30, 2018



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EPA OIG Evaluation #2

- We looked at how the lack of a Notice of Availability (NOA) of required Agricultural Worker Protection Standard(WPS) training materials affected implementation of the revised rule
- Per the revised rule, EPA was to publish a NOA in the Federal Register to inform stakeholders when expanded training materials were available



Background

- In a notice of proposed rulemaking published December 21, 2017, the agency announced its intention to further revise the WPS.
- In this notice, the EPA also said it would not issue a NOA for the expanded training materials until the additional rulemaking process was completed.



Background

- The EPA did not publish a NOA when expanded training materials for the 2015 revised Agricultural WPS were available
- As a result, although there were expanded training materials available, the EPA allowed employers to continue to use the “old” pesticide safety training materials
- These “old” training materials did not include the revised 2015 WPS requirements.



Human Health Risks

- The 2015 WPS revisions are intended to decrease pesticide exposure incidents among farmworkers and their family members.
- Fewer incidents means a healthier workforce, which helps avoid lost wages, medical bills, and absences from work and school.
- However, without training on the expanded pesticide safety content required by the revised WPS, the more protective standards cannot be fully implemented.



Scope and Methodology

- Conducted our work from May 2018 through August 2018
- Reviewed the revised 2015 WPS
- Reviewed the EPA's website and relevant training materials
- Interviewed staff from the EPA Pesticide and Enforcement and Compliance staff
- Obtained information about the status of the EPA's NOA for the revised WPS materials, including information regarding what materials were available



Results of Evaluation

- On June 22, 2018, after the start of this audit, the EPA revised its position and published a NOA for the expanded 2015 revised training materials
- The Office of Pesticide Programs' website was also updated to reference the NOA
 - <https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps>



Recommendations

- Since the EPA has already acted to address the issue noted, the OIG made no recommendations.



Next Steps

- Status of Recommendations from Evaluation 1 and Evaluation 2
- Ideas for Future Work in this area?



Questions?

- Visit www.epa.gov/oig for more information about our work
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