



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

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OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

**MEMORANDUM**

**SUBJECT:** Response to Final OIG Evaluation Report "Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill," Report No. 11-P-0534, dated August 25, 2011

**FROM:** Mathy Stanislaus  
Assistant Administrator

A handwritten signature in black ink that reads "Mathy Stanislaus".

**TO:** Arthur A. Elkins, Jr.  
Inspector General

This is in response to your report dated August 25, 2011, entitled "Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill." We agree with the seven recommendations contained in this report that pertain to the Office of Solid Waste and Emergency Response. We have arrived at a plan that we believe will enhance our program and address the recommendations in your report. Listed below are your recommendations, followed by our action plan for each.

**Recommendation #1: Develop appropriate NCP Subpart J testing revisions, including proceeding with plans in place before the Deepwater Horizon oil spill, to incorporate the most appropriate efficacy testing protocol. Develop an action plan with milestones for these and any other necessary revisions and take steps to propose NCP Subpart J revisions.**

**Action Plan:** Regulatory revisions to the NCP's Subpart J testing requirements are underway. The proposed rule incorporating NCP testing requirements is expected to appear in the Federal Register in summer 2012.

**Recommendation #2: Have the OEM Director work through the office's NRT capacity to establish a policy that calls for periodic reviews and updates to contingency plans, after considering lessons learned from major national and international oil spills, and/or based on area trends in oil drilling.**

**Action Plan:** The OEM Deputy Director is currently working with the NRT to develop a framework in addressing dispersants and plan reviews and updates, in light of lessons learned in the Deepwater Horizon spill. We anticipate this task will be completed by fall 2012.

**Recommendation #3: Modify the NCP Product Schedule and contingency plans to include additional information (such as testing on crude oil, subsurface dispersants application, volume and duration limits, etc.) learned from the Deepwater Horizon oil spill response and use such information to revise and update Area and Regional Contingency Plans.**

**Action Plan:** Regulatory revisions to the Subpart J requirements for the NCP Product Schedule and contingency planning elements are underway. These revisions will address chemical agent tests (such as dispersants) using crude oil, subsurface use of dispersants, and quantity, location, and duration of chemical agent use criteria. The proposed rule incorporating NCP testing requirements is expected to appear in the Federal Register in summer 2012.

In the meantime, OEM is working with the Regional Response Team to conduct reviews and updates to Area and Regional Contingency Plans in light of lessons learned in the Deepwater Horizon spill. However, the United States Coast Guard is the lead on coastal Area Contingency Plans.

**Recommendation #4: Develop policies/procedures for subsurface dispersant application and modify pre-authorization plans to address subsurface use.**

**Action Plan:** On September 27, 2011, OEM sent the NRT its draft guidance report, entitled “Subsea Dispersant Monitoring and Assessment Interim Guidance (Draft)”, which generally applies to subsurface dispersant application. This provides interim guidance in the following areas:

- Subsea dispersant monitoring and application;
- Monitoring of vessel activities;
- Monitoring and sampling equipment resources;
- Reporting recommendations; and
- Evaluation criteria used to determine operational shut down of subsea dispersant applications.

**Recommendation #5: Develop guidance and training for a Spill of National Significance (SONS) that clarifies roles and responsibilities for high-level Agency officials. Review this response and the NCP and work with federal partners to address lessons learned, and include detail on how to respond to a SONS.**

**Action Plan:** EPA is currently working with the Federal Emergency Management Agency and the United States Coast Guard to identify the roles and responsibilities for senior officials for the National Response Framework as the United States Coast Guard is the lead for coastal SONS responses. We anticipate this task will be completed in winter 2012.

**Recommendation #6: Review and analyze NCP Subpart J toxicity testing protocols to ensure that emergency responders have the information necessary for appropriate subsurface dispersant use for future oil spills.**

**Action Plan:** This issue is currently being addressed as part of the action to revise the requirements for Subpart J toxicity testing and criteria for listing dispersants on the NCP Product Schedule. When revisions to the Product Schedule requirements are complete, OEM will work on revisions to the Selection Guide and Technical Notebooks, which are made available to emergency responders, to ensure the necessary information is available for subsurface dispersant use on future oil spills.

**Recommendation #7: As part of the action to review NCP Subpart J requirements, address the need to capture and maintain dispersant and manufacturer production capacities, equipment requirements, and other necessary information to better prepare for future oil spills. Make this information widely available to the response community.**

**Action Plan:** Under the Subpart J regulatory revisions process, OEM is currently investigating options for collecting these types of information, although this is contingent on manufacturers providing this information to EPA.

The proposed rule incorporating NCP testing requirements is expected to appear in the Federal Register in summer 2012

**Recommendation #8: Develop a research plan to address gaps on long-term health and environmental effects of dispersants.**

**Action Plan:** This recommendation falls under the jurisdiction of EPA's Office of Research and Development.

We look forward to working with our Headquarters Oil Spill program to update NCP's Subpart J, in light of lessons learned in the Deepwater Horizon spill. If you have any questions, please contact Dana Tulis, Deputy Director of the Office of Emergency Management at (202) 564-7938.