



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

DEC -9 2011

THE INSPECTOR GENERAL

MEMORANDUM

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

TO: Mathy Stanislaus
Assistant Administrator for Solid Waste and Emergency Response

Paul Anastas
Assistant Administrator for Research and Development

Thank you for your recent responses to the subject report and the actions taken by the Offices of Solid Waste and Emergency Response (OSWER) and Research and Development (ORD). Your responses detail actions OSWER and ORD have taken or plan to take to implement our recommendations.

Recommendations 1 through 7 apply to OSWER. We accept OSWER's corrective action plan for recommendations 1, 2, 3, 4, and 6. For recommendations 5 and 7, we need additional information on specific actions OSWER will take to address our recommendations. The attachment provides the status and our evaluation of each of OSWER's corrective actions to address our recommendations. We request the additional information on the planned corrective actions by December 16, 2011.

Recommendation 8 applies to ORD. We accept ORD's corrective action plan and have closed this recommendation.

If you or your staff have any questions, please contact Patrick Gilbride, Director of Risk and Program Performance, at (303) 312-6969.

Arthur A. Elkins, Jr.

Attachment

cc: Dana Tulis, Office of Emergency Management, OSWER
Johnsie Webster, Audit Liaison, OSWER
Norman Adkins, Audit Liaison, ORD

Attachment

OIG recommendation	Agency action(s) taken, ongoing, or planned	OIG analysis	Status
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.	OSWER 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 by August 30, 2012.	We accept OSWER's corrective action plan and milestone date.	Closed
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.	OSWER 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 December 31, 2012.	We accept OSWER's corrective action plan and milestone date.	Closed
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.	OSWER 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 by August 30, 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.	We accept OSWER's corrective action plan and milestone date.	Closed

OIG recommendation	Agency action(s) taken, ongoing, or planned	OIG analysis	Status
<p>4. Develop policies/procedures for subsurface dispersant application and modify pre-authorization plans to address subsurface use.</p>	<p>OSWER Action Plan: On September 27, 2011, OCM 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:</p> <ul style="list-style-type: none"> • 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. • Modification of Area Contingency Plans 	<p>We accept OSWER's corrective action plan and milestone date.</p>	<p>Closed</p>
<p>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.</p>	<p>OSWER 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 by March 30, 2013.</p>	<p>We commend EPA for working with other agencies to identify roles and responsibilities for senior officials. However, we do not believe that OSWER's action plan specifically addresses our recommendation. We recommend that OSWER develop guidance and training for a SONS. Although OSWER has taken steps to identify roles and responsibilities for senior officials, the Agency did not address in its action plan how or when OSWER will develop training and guidance on this issue.</p> <p>Additionally, we recommend that OSWER review the NCP to address lessons learned and include detail on how to respond to a SONS. The President delegated to EPA the responsibility for amending the NCP. OSWER did not include in its action plan whether it will revise the NCP to describe how a SONS should be respond to.</p>	<p>Recommendation unresolved pending additional information.</p>

OIG recommendation	Agency action(s) taken, ongoing, or planned	OIG analysis	Status
<p>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.</p>	<p>OSWER 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.</p> <p>The proposed rule incorporating NCP testing requirements is expected to appear in the Federal Register by August 30, 2012.</p>	<p>We accept OSWER's corrective action plan and milestone date.</p>	<p>Closed</p>
<p>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.</p>	<p>OSWER 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.</p> <p>The proposed rule incorporating NCP testing requirements is expected to appear in the Federal Register by August 30, 2012.</p>	<p>We understand that making this type of information readily available to the response community is contingent on manufacturers providing this information to EPA. However, we believe that this information is very important for responding to spills, and that EPA, as keeper of Subpart J of the NCP, can require manufacturers to provide this information.</p> <p>We do not believe OSWER has provided a sufficiently specific corrective action plan on this recommendation. We request additional information on a specific plan for investigating options on these types of information, as well as milestone dates.</p>	<p>Recommendation unresolved pending additional information.</p>
<p>8. Develop a research plan to address gaps on long-term health and environmental effects of dispersants.</p>	<p>ORD Response to Final Report: We have drafted a longer-term research strategy to address gaps specifically related to the health and environmental effects of dispersants, as well as addressing other oil spill-related research needs. Since the time we provided our response to your draft report and indicated publication would take place in Fall 2011, the EPA's Science Advisory Board (SAB) conducted a review of our draft research strategy and provided comments. Due to the number of substantive comments, we anticipate publication will take place by September 30, 2012.</p>	<p>We accept ORD's ongoing corrective action plan for developing a research plan on dispersants.</p>	<p>Closed</p>