



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

FEB 7 2012

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

Thank you for your January 26, 2012, response to our request for additional information on recommendation 5 from the subject report, and the actions taken by the Office of Solid Waste and Emergency Response (OSWER). We accept OSWER's corrective action plan for recommendation 5.

The attachment provides our evaluation of each of OSWER's corrective actions to address our recommendations, and we noted the status as "closed" for all recommendations. If you or your staff have any questions, please contact Patrick Gilbride, Director of Risk and Program Performance, at (303) 312-6969.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", written in a cursive style.

Arthur A. Elkins, Jr.

Attachment

cc: Lawrence M. Stanton, Director, Office of Emergency Management, OSWER
Dana Tulis, Deputy Director, Office of Emergency Management, OSWER
Johnsie Webster, Audit Liaison, OSWER

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, 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:</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 (FEMA) 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><i>OSWER Updated Action Plan:</i> <i>EPA will look at adding language to the National Response Framework Emergency Support Function (ESF) #10 annex that will outline EPA senior officials' likely role in a response. EPA will submit draft revisions to FEMA no later than December 2012.</i></p> <p><i>OSWER Updated Action Plan 1/26/12:</i> OSWER agreed with the OIG recommendation that senior leadership roles and responsibilities need clarification regarding a SONS. OSWER feels that this training and guidance should be applicable to any significant emergency response, which includes specific examples of a SONS, but also includes examples like a hurricane or earthquake affecting a wide area with catastrophic hazmat releases and oil spills. Such guidance and training will take into account EPA's responsibilities under the NCP, as well as ESF #10 of the National Response Framework. EPA has updated this in its "Incident Management for Executives" training, which was updated as a result of lessons learned from the Deepwater Horizon Spill. Training has been presented in one region. Due to recent budgetary constraints on travel, we anticipate this training will be completed by October 31, 2013. The Agency also plans to</p>	<p>We accept OSWER's corrective action plan and milestone date.</p>	<p>Closed</p>

OIG recommendation	Agency action(s) taken, ongoing, or planned	OIG analysis	Status
	develop policy guidance on this issue, which it anticipates will be completed by October 31, 2013.		
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>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>	We accept OSWER's corrective action plan and milestone date.	Closed
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>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><i>OSWER Updated Action Plan: OEM is in the process of developing amendments to the requirements in Subpart J of the NCP, and one set of elements under development is proposed regulatory changes that would require product manufacturers to include information on their production capabilities and equipment requirements. OEM is also examining options on the frequency of updating this information and mechanisms for making it available to the response community. OEM will seek public comment on the approach and options, and the proposed rule is scheduled for August 2012.</i></p>	We accept OSWER's corrective action plan and milestone date.	Closed