




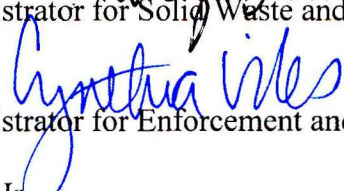
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 08 2012

MEMORANDUM

SUBJECT: Environmental Protection Agency's (EPA) Response to OIG's Final Report: "EPA Needs to Further Improve How It Manages Its Oil Pollution Prevention Program" (Report #12-P-0253)

FROM: Mathy Stanislaus 
Assistant Administrator for Solid Waste and Emergency Response (OSWER)

Cynthia Giles 
Assistant Administrator for Enforcement and Compliance Assurance (OECA)

TO: Arthur A. Elkins Jr.
Inspector General

We appreciate the opportunity to respond to the recommendations presented in the Office of Inspector General (OIG) final report: "EPA Needs to Further Improve How It Manages Its Oil Pollution Prevention Program" (Report #12-P-0253), dated February 6, 2012. The Office of Solid Waste and Emergency Response (OSWER), in consultation with the Office of Enforcement and Compliance Assurance (OECA), reviewed the recommendations and outlined a plan with completion dates to address them.

For several years, OSWER and OECA have coordinated to improve the management and implementation of the oil program. We appreciate OIG's recognition of these efforts in the final report and both OSWER and OECA commit to continue to work collaboratively to further improve oil program efficacy and consistency.

Here is our response to the report's recommendations. Some of the recommendations have already been addressed since the OIG staff review. Note that the oil program is relatively small with limited resources. Our mission is the prevention of, preparedness for, and response to oil discharges to protect public health and the environment. Consequently, commitment to these recommendations must be weighed against priority work to carry out that mission.

Recommendation #1: Improve oversight of facilities regulated by EPA's oil pollution prevention program by:

- **Developing procedures for updating and issuing new guidance to ensure the regulated community has access to the most current guidance.**
 - Response: OSWER follows the EPA Action Development Process and Good Guidance Practices when updating or issuing guidance. OSWER issues materials available on the EPA intranet to assist staff in developing rules and guidance (see <http://intranet.epa.gov/swerrim2/policy/index.htm>). Guidance documents, such as the *SPCC Guidance for Regional Inspectors* are available to the regulated community on the EPA website.
OSWER/OEM already has in place a procedure to continually monitor and collect frequently asked questions and comments from the regulated community and the regions which are subsequently reflected in guidance documents.

- **Implementing a risk-based strategy toward inspections that identifies unknown SPCC and FRP facilities, and directs inspection resources toward facilities where the potential for spills poses the greatest risks to human health and the environment.**
 - Response: OSWER is currently leading an effort to develop a risk-based inspection strategy for SPCC and FRP facilities. The strategy will be based, in part, on the existing draft targeting strategy previously provided to the OIG. Note that this targeting strategy will, in part, identify targets based on spill data, allowing for EPA to identify unknown SPCC and FRP facilities. The strategy also identifies those facilities where there is a greater threat of discharge (e.g. large oil quantities, proximity to water resources, actual discharges).

OSWER expects to finalize the targeting strategy by March 1, 2013, with regions being advised to continue to use the draft targeting strategy in the interim.

- **Consistently interpreting regulations and EPA's authority to enforce regulations.**
 - Response: OSWER will continue to work to ensure consistent interpretation and understanding of the regulations by developing and updating outreach materials and guidance. OSWER recently completed guidance for owners and operators of small oil storage facilities that are eligible to self-certify SPCC Plans. OSWER is also working to update the *SPCC Guidance for Regional Inspectors* issued in 2005 to include SPCC regulatory amendments in 2006, 2008, 2009 and 2011. This effort was initiated with the completion of several Tier I guidance documents (currently on the web) and revisions to the National Inspector Checklists (Appendix G of the guidance) which were published on the EPA website in January 2012. OSWER will complete updates to the main chapters of the guidance document by September 30, 2012.

OSWER will also continue coordinating with regional technical program leads, inspectors, and oil program managers on a monthly basis; providing 40-hour SPCC/FRP inspector training twice annually; providing online annual refreshers; and providing web based training on specific technical issues as needed. Regular dialogue with the regulated community, monitoring of questions to our hotline, and ongoing communication with all oil program staff allows us to continuously examine whether inconsistencies are beginning to emerge and to take rapid corrective action.

OECA will issue a memorandum to the Regional offices reiterating the importance of consistently interpreting SPCC/FRP regulations and EPA's authority to enforce such regulations. OECA will issue this memorandum by December 2012.

- **Producing a biennial public assessment of the quality and consistency of SPCC Plans and FRPs based on inspected facilities.**
 - Response: OSWER will perform an internal review of a subset of SPCC Plans obtained during inspections from all ten EPA Regions to evaluate SPCC Plan consistency and quality. OSWER will develop a review protocol by September 2012 and use this protocol to evaluate SPCC Plans collected during the FY2012 inspection cycle. A summary of findings will be developed by October 2013. These findings will help to identify areas where additional guidance and outreach are needed to improve the quality and consistency of SPCC Plans. EPA will provide guidance or outreach materials specifically addressing areas of inconsistency or quality identified in the review which will be posted on the publically accessible EPA website. Further reviews will be performed biennially as resources allow.

The model developed for the SPCC program will then be used to develop a review protocol for FRPs by September 2013, to examine FRP inspections conducted during the FY2013 inspection cycle. A summary of findings will be developed by October 2014. These findings will help to identify areas where additional guidance and external outreach are needed to improve the quality and consistency of FRPs. EPA will provide guidance or outreach materials specifically addressing areas of inconsistency or quality identified in the review which will be posted on the publically accessible EPA website.

Further reviews will be performed biennially as resources allow. OSWER will evaluate the efficacy of this review process (for both FRP and SPCC) after two review cycles and will determine whether modification is necessary or whether to continue this review process.

Recommendation #2: In support of improving oversight, establish a national oil program database that:

- **Contains a detailed history of compliance and inspections for facilities subject to the SPCC Rule.**
 - Response: The National Oil Database launched in August 2011, serves as the database of record for the SPCC and FRP programs. The database includes a comprehensive set of data elements about inspected facilities. The database incorporates legacy inspection records totaling over 25,000 records. The launch and ongoing use of this database effectively responds to this recommendation. OEM will continue to support the National Oil Database as resources allow and to work collaboratively with OECA on data exchange issues (see response to last bullet below).
- **Uses comprehensive deficiency and/or compliance codes specifying why a facility was not in full compliance in order to identify and track national trends.**
 - Response: The compliance module in the oil database described above includes a data element related to expedited enforcement codes as well as an Inspection Conclusion Data Sheet (ICDS) generator that matches the deficiency codes tracked by OECA. A text box is provided for each inspection record to allow the recording of specific deficiencies noted. Additionally, OSWER will complete an evaluation of options to track SPCC- and FRP-specific deficiencies using standardized drop-down menus by September 2012 and will implement based on resource availability.
- **Ensures consistent data entry across all 10 EPA regions.**
 - Response: The National Oil Database software is designed to ensure consistent data entry through a nationally-consistent data entry platform for the EPA Regions to track SPCC and FRP programmatic activities, including plan reviews, inspections, and related correspondence. OEM regularly works with regional representatives to build understanding of the database parameters to further maintain consistent data entry. The database also includes a quick reporting feature to allow OSWER and the Regions to run nationally-consistent program reports. The launch and ongoing use of this database effectively responds to this recommendation. OEM will continue to support the National Oil Database and work collaboratively with OECA on data exchange issues (see response to the next recommendation).
- **Exchanges data seamlessly with the Agency's existing compliance and enforcement databases.**
 - Response: OSWER has been actively working with OECA to develop the necessary framework to allow the exchange of information between the oil

database and OECA's ICIS database since the oil database was launched. OECA has identified at least two options to enable the data exchange, and OSWER is evaluating these along with other potential options to identify the most cost-effective approach. OSWER and OECA will conclude this evaluation and make a decision on data exchange options by September 2012. The timing of the implementation of the selected option will be based on resource availability and the timing of any necessary modifications to the ICIS database by OECA.

