

# National Oil and Hazardous Substances Pollution Contingency Plan (NCP)

## Revisions to Subpart J

### *Monitoring Requirements*



# Background

- Subpart J governs the use of dispersants, and any other chemical or biological agent to respond to oil discharges
- Last major revisions in 1994
- Deepwater Horizon oil spill occurred in April 2010
  - The blowout discharged oil from one mile below the sea surface.
  - Approximately three quarters of a million gallons of dispersants were, for the first time, injected directly into the discharging oil
  - Approximately one million gallons of dispersants over a three-month period were deployed on surface slicks over thousands of square miles of the Gulf of Mexico
  - Reports from the DWH Oil Spill Commission and EPA Inspector General included recommendations relevant to Subpart J



# Objectives of Proposed Subpart J Amendments

- To encourage the development of safer and more effective spill mitigating products, and to better target the use of these products to reduce the risks to human health and the environment.
- To ensure that On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and Area Committees have sufficient information to support agent preauthorization or authorization of use decisions.
  - To better inform an assessment of the overall ecological risks for the OSC to consider when authorizing the use of chemical agents



# Background

January 2015 Proposed Rule received over 81,000 comments

## Three Major Sections of the Proposed Rule

- **Listing** (amendments): How will the products be listed on the Schedule to ensure they have met efficacy and toxicity requirements
- **Authorization** (amendments): How will products be authorized for use, with focus on environmental impacts & considering additional monitoring
- **Monitoring** (**new requirements**): How will subsurface or prolonged use application of dispersants be monitored

Approach: Finalize the rule in steps, beginning with the ***Monitoring Section***

Litigation: EPA received lawsuit notification in January 2020

## Workgroup Engagement

- Commenced on March 12, 2020
- Final Rule Development for Monitoring Section



# Final Rule: Monitoring Requirements Applicability

These new monitoring requirements apply to the responsible party of an oil discharge

Amendments establish dispersant monitoring requirements when responding to oil discharges as follows:

- ***Subsurface*** – Any subsurface use of dispersants,
- ***Prolonged Surface*** – Any surface use of dispersant for more than 96 hours after initial application, and
- ***Major Oil Discharges*** – Any surface use of dispersant in response to oil discharges of more than 100,000 U.S. gallons occurring within a 24-hour period



# Key Areas of Monitoring Elements:

## Water Column Sampling

- Background, baseline, and dispersed oil plume water column in-situ sampling for oil droplet size distribution
- Fluorometry and fluorescence
- Total petroleum hydrocarbons
- Dissolved oxygen (subsurface only)
- Methane (subsurface only)
- Heavy metals
- Turbidity
- Water temperature
- pH, and
- Conductivity



# Key Areas of Monitoring Elements

## Oil Distribution Analysis:

- Characterization of dispersant effectiveness and oil distribution

## Ecological Characterization:

- Characterization of potential ecological receptors and habitats, and their associated exposure pathways



# Key Areas of Monitoring Elements: Immediate and Daily Reporting:

## Immediately report to the OSC any:

- Deviation of more than 10 percent from the mean hourly dispersant use rate for **subsurface application**, based on the dispersant volume authorized for 24 hours use, and the reason for the deviation.
- Ecological receptors of environmental importance, and any other ecological receptors as identified by the OSC or the **Natural Resource Trustees, including any threatened or endangered species** that may be exposed based on dispersed plume trajectory modeling and level of concern information.





# Key Areas of Monitoring Elements: Immediate and Daily Reporting:

- Report daily to the OSC water sampling and data analyses collected, including:
  - For each application platform, the actual amount of dispersant used for each one-hour period and the total amount of dispersant used for the previous 24-hour reporting period.
  - All collected data and analyses of those data within a time frame necessary to make operational decisions (e.g., within 24 hours of collection), including documented observations, photographs, video, and any other information related to dispersant use, unless an alternate time frame is authorized by the OSC.
  - For analyses that take more than 24 hours due to analytical methods, provide such data and results as available but no later than five days, unless an alternate time frame is authorized by the OSC.
  - Estimates of the daily transport of dispersed oil, non-dispersed oil, the associated volatile petroleum hydrocarbons, and dispersants, using available technology as described in paragraph (c) of this section.
- ***Report all information provided to the OSC to the RRT(s).***



# Timeline of Activity

## Began Workgroup Meetings: March 12, 2020

- Monitoring Requirements Options Selection Meeting: May 5, 2020
- Final Agency Review Meeting: August 20, 2020
- Federal Register Publication: July 27, 2021
- Effective Date: January 24, 2022

## Workgroup began addressing Listing and Authorization provisions following completion of Monitoring provisions

- Listing & Authorization Options Selection Meeting: February 2, 2022
- Final Agency Review Meeting: January 26, 2023
- Final Rule submitted to OMB on February 27, 2023
- EPA is under a court order to sign the Final Rule by May 31, 2023
- Federal Register notice anticipated this summer



# For more information:

- National Contingency Plan Subpart J:
  - <https://www.epa.gov/emergency-response/national-contingency-plan-subpart-j>
- NCP Product Schedule:
  - <https://www.epa.gov/emergency-response/ncp-product-schedule-products-available-use-oil-spills>
- NCP Subpart J Revisions:
  - <https://www.epa.gov/emergency-response/revisions-national-oil-and-hazardous-substances-pollution-contingency-plan>

