Removal Workload Planning Briefing Framework

What is the general breakdown of emergency responses vs. time critical removal actions (TCRAs) in your region? For TCRAs, what is the general breakdown of non-NPL vs. NPL sites?

For the last two fiscal years, nearly 72 percent of our removal completions were emergency responses. For FY 2011 and 2012, there were approximately 60 removal actions, 43 of which were emergency responses.

For the past two years of removal completions, six sites were on the NPL.

What is your involvement with non-time-critical removals (NTCRAs) in terms of OSCs managing sites/actions, use of removal AOA, use of contracts, other considerations, particularly at NPL sites? Do you identify cost-saving/leveraging opportunities when coordinating with site assessment and remedial programs, e.g., sampling and analysis strategy?

The Region 8 Emergency Response Unit has seldom initiated any non-time critical removal actions (NTCRAs). The most recent such site using Removal AOA was the Standard Mine Site in 2006, based on a request from the Remedial Program. On occasion, the ER Unit has assisted the Region 8 Remedial Program or Federal Facilities to conduct NTCRAs where others have prepared the EE/CAs and provided funding.

Regarding cost-saving opportunities, Region 8 has actively pursued coordination between the Removal, Site Assessment, and Brownfields Programs for many years. Sampling events are coordinated in terms of timing and contractor personnel to leverage Agency resources and facilitate timely and efficient cleanups. Sampling data is shared, and the Programs refer sites to one another as appropriate (e.g., when NPL resources may be needed, when removal authorities are not needed for the scope and problems of a particular site, or when an imminent threat requires swift action by the Removal Program).

What is/are the source(s) for removal sites/actions in descending order? State referrals? NRC notifications? EPA Program referrals (e.g., RCRA, TSCA)? Others?

The majority of the larger TCRAs are generated through in-house coordination, i.e., Brownfields, Site Assessment, Remedial, and the Criminal Investigation Division (CID). Occasionally, requests will come from States or local governments for problem sites where enforcement is not working or where there is insufficient funding. Quite a few emergency responses are conducted as a result of NRC notifications, but these seldom result in longer-term removal actions.

What criteria do you use to prioritize site workload?

- Scope and magnitude of threat to human health and the environment? This is our most important criterion.
- Specific contaminant(s) and existing and/or innovative technologies? The contaminant is only a criterion to the extent it poses an urgent threat in a particular exposure scenario.
- Cost estimate for assessment and action? This is always a factor.
- Contract capacity? This is likewise always a factor.
- Enforcement considerations, e.g,. PRP search initiated, viable PRP(s) identified, We follow an enforcement-first policy, seeking to compel PRPs to do the work before taking on the site as a

fund-lead. However, threat to human health and the environment is still the most important criterion.

- Program management considerations/contributions, e.g., program measure accomplishment, beneficial reuse, integrated cleanup initiative potential, etc?
- Environmental justice? Again, threat to human health and the environment is the most important criterion. Many of our removal actions in recent years have been performed on tribal lands where there are imminent human health threats from asbestos-containing abandoned buildings, abandoned drums, and fires at compromised landfills.
- Policy or precedent-setting potential of a removal action?
- Region-specific considerations, e.g., differences among states within a region, climate/construction season, geography (area, unique features, etc.)

What trends/patterns regarding the types of site referrals from states within your regions have you observed over the last 3-5 years? For example, have you received more referrals for heavy-metal contaminated sites? Have you received more referrals for removals following emergency responses to which you may or may not have responded?

Region 8 has always had a steady number of removals at abandoned mine sites, and that will likely continue into the future. We have been conducting more removals on tribal lands in recent years. This is a result of the coordination and outreach conducted by the Brownfields Program, which recommends removal actions to tribes (and sometimes cities and counties) when an imminent threat is discovered. We have also had several sites in recent years where we worked closely with CID on parallel investigations, many of which turned into emergency responses for the Removal Program.

Acknowledging regions most likely have an idea of actual/potential removals for an upcoming FY, how frequently do you meet with State/Tribal/territorial/local counterparts (i.e., environmental resources/conservation/cleanup, public health, others) to coordinate and discuss progress of ongoing and new sites? Do you discuss state/tribal/territorial/local's potential role and/or contribution during and post removal?

We have regular Superfund meetings (how often?) with our six states and one topic of those meetings is progress on removal sites. We also meet with our state counterparts during the twice-yearly RRT meetings. We conduct outreach to local government agencies and tribes when opportunities are available (e.g., conferences, LEPC meetings, etc.) to let them know the resources the Removal Program can provide.

Oil Program Workload Planning

How does the region identify and prioritize SPCC and FRP inspections? How are follow ups to bring facilities into compliance managed?

Currently R8 will target inspections based off high risk factors and then will generally target other sites while in that area to conserve on agency resources. Our main high risk factors are spills, referrals we receive from the State, Locals, Tribes, Citizens, and facilities that have the potential to cause substantial harm. R8 will also consider geography since the Regions footprint is quite large. If the region targeted and inspected an area last FY we will focus our resources in other locations where the region did not have a high presence. A recent NPR Report ("*Loophole lets Toxic Oil Water Flow Over Indian Land*") highlighted potential issues related to NPDES discharges from oil and gas operations on the Wind River Indian Reservation. The SPCC program was directed by the RA to review our previous inspections in this area, and provide a proposed inspection plan for these sites in

FY13. Due to this request the program has focused our targeting to this area which will take up the bulk of our SPCC inspections for this FY.

FRP inspections/GIUEs are based off new facilities that the region has never inspected/drilled and FRP plans that have multiple deficiencies. Again geography is also considered when targeting since our footprint is quite large and it is very expensive to travel throughout R8. R8 currently conducts both FPR Inspections and GIUEs together and do not count them separately for the return to compliance measure.

For those regions where inspection and enforcement departments are separate, what mechanisms do you use to coordinate and transfer inspection results for enforcement action?
- How are follow ups handled?
  See Below
- Do enforcement staff contact inspectors to get help on questions?
  See Below
- Are actions taken on deficiencies timely?
  Yes – we are currently trying to follow and implement the Flow Charts that were developed by the Compliance Workgroup

Who is identified as the primary resource for regional data entry to the oil program database?
Melissa Payan via Barb Nisley

Oil Program (Spill Prevention, Control and Countermeasure (SPCC) and Facility Response Plan (FRP) Regulatory) Workload Planning

Oil Program Operations

1. Briefly describe how the SPCC and FRP programs (i.e., inspections, enforcement, data entry, outreach) are organized in your region:
   SPCC & FRP Inspections/GIUEs: In Region 8, the Office of Ecosystems Protection & Remediation (EPR) is the lead for all SPCC and FRP activities. Within EPR, the Oil Program is under the Emergency Response and the Preparedness Program (ERP). The Preparedness Unit has the lead to coordinate and conduct all SPCC inspections, planning, targeting, and outreach. The Preparedness Unit is also the lead for coordination of all FRP Plan Reviews, FRP Inspections and FRP GIUEs. The Emergency Response Program houses the On-Scene Coordinators (OSCs) who conduct the FRP GIUEs and Inspections. Currently FRP inspections and drills are conducted together in-order to conserve on agency resources.

   Enforcement: The Office of Enforcement, Compliance and Environmental Justice (ECEJ) is the lead for SPCC enforcement and Oil Spill Enforcement. All formal enforcement is done though our enforcement division. The enforcement team also has 3 trained inspectors who conduct approximately 14% of the programs SPCC inspections. These inspections are follow ups to enforcement actions and/or done for training purposes and to keep the staff trained with regulatory provisions.

   Data Entry: The Preparedness Unit is responsible for assuring all SPCC/FRP inspections/drills and compliance activities are entered into the regional spreadsheet, the National Oil Database and ICIS. The enforcement team ensures all enforcement actions are entered into ICIS. Coordination between both the program and enforcement are done to assure all data entered is accurate and up to date.

How many oil full-time equivalents (FTEs) are committed to SPCC inspections and FRP inspections/government-initiated unannounced exercises (GIUEs) and what does that represent as a percentage of the total oil FTE provided to the region?

Preparedness Unit: 1 Full-Time FTE, (2 Senior Environmental Employees and 1 START Contractor)

Emergency Response Unit: 3 Full-Time Trained FTE & 2 additional FTE in training.

The Program currently has 8 FTE committed to Oil Resources

This proposed answer does not really address the question. The current OECA-Oil funding to ECEJ is 1.3 FTE. This is all for enforcement (none for inspections). ECEJ commits additional EPM money to the OPA enforcement team, of which 0.5 FTE (including 0.3 FTE management overhead) is charged to compliance monitoring, which would include inspections and information requests. It would be great to see EPR's breakdown on this as well.

Please answer one of the following questions, based on your region's organizational structure:

a. For regions where enforcement and inspection staff/activities are under the same manager are there issues relating to competing priorities (enforcement versus inspections)? N/A

b. For those regions where enforcement and inspection staff/activities are not under the same manager, what mechanisms do you use to coordinate and transfer inspection results for enforcement action? How frequent is this coordination? Are there any issues related to this coordination?
Currently the region has substantial coordination within the entire oil program. EPR and ECEJ meet every month and discuss upcoming inspections, cases that are being referred to enforcement, status of enforcement cases, and all other oil related activities (outreach, national calls/workgroups, targeting, misc.) The oil program also holds annual retreats to discuss our objectives/goal for the upcoming fiscal year. We also have a shared drive which houses a working spreadsheet with our list of potential targets and conducted inspections for each fiscal year. As inspections are completed/turned over to enforcement or brought into compliance this spreadsheet is updated by both programs. The oil program and enforcement currently have a mutual understanding of each other roles and responsibilities. We are in the process of working on updating a regional SOP to identify all program responsibilities.

Performance Measures

1. Is the region experiencing any challenges this fiscal year relative to maintaining the number of inspections or meeting the return to compliance measure?
At this time the region does not have a measure that ties them to a number of inspections. Currently we are on target to reach the regional goal of returning 40% of our inspected facilities into compliance.
SPCC Inspections – 20 out of 58 (34%) non-compliant facilities were brought into compliance by the end of 2nd Qtr.

Region 8 is planning on conducting a total of 30 SPCC inspections in FY13. If all inspected facilities are found to be out of compliance R8 will need to bring an additional 14 facilities into compliance in-order to meet the regional goal of 40%.

FRP Inspections & GIUEs - 2 out of 9 (22%) non-compliant facilities were brought into compliance by the end of 2nd Qtr.
Region 8 is targeting 15 FRP facilities and will conduct 15 FRP Inspections and 15 Government Initiated Unannounced Exercises. FRP Inspections and GIUEs are done at the same time to conserve on agency resources. If all facilities are found to be out of compliance R8 will need to bring an additional 8 FRP facilities into compliance in-order to meet the regional goal of 40%.

2. Can the enforcement case load (both formal and informal) support the inspection rate in the region?
No. Enforcement's ability to support our current inspection rate (50 SPCC/FRP inspections/yr) depends on the speed at which the current noncompliant facilities can be returned to compliance and how quickly open OPA cases are settled. Currently the Region has 50 cases in development or negotiation, 16 of which are related to SPCC/FRP violations identified during inspection (directly related to OEM's ACS return to compliance measure). These 50 cases include 8 referrals to DOJ, which take considerably more staff time. While enforcement is implementing several procedural changes in an attempt to return facilities to compliance more quickly, additional workload continues to pour into the OPA enforcement branch from both inspections and spills. For example, Region 8 currently has over 40 reported spills it could potentially pursue with enforcement in addition to its current case load. Increasing SPCC/FRP inspections will lead to additional enforcement referrals that will be difficult for the enforcement group to address in a timely manner.

   Some of the procedural changes being implemented in the OPA enforcement program include:

   - implementing a triage process for spill reports
   - using letters of violation to spur compliance with the regulations
   - using additional FTE to assist with enforcement follow-up in OPA
   - using letters of violation offering ESA, if eligible, if SPCC violations are corrected within a certain time period
   - developing standard models for its actions, and
   - minimizing inspections in the enforcement program to focus on development of enforcement cases.

   The region has slightly decreased the number of inspections it conducts overall to ensure facilities that are inspected are returned to compliance quickly and effectively, and ECEJ is working with EPR to ensure that inspections they conduct are turned over to ECEJ for enforcement quickly, if warranted.

Oil Database

1. Briefly describe your region's procedures for data entry and any challenges you have encountered.
   We are currently using 3 different databases for oil related activities. Our regional Spreadsheet which is an ongoing working document that identifies SPCC Inspections and their Compliance Status. We also enter in all of our data entry into ICIS as well as the National Oil Database. Hopefully when the Oil Database has the capability to have a direct link to ICIS the region will only need to enter data into that system and will no longer need to use resources for inputting the same information into multiple systems.