

U.S. Department of the Interior (DOI)
Comments Following 5/22/09 Dispersants Stakeholder Meeting

Alaska Regional Response Team Work Flow Process

- The process for revising the Alaska Regional Response Team’s (RRT) Dispersant Use Guidelines for Alaska (*Dispersant Guidelines*) needs to follow the Alaska RRT work flow process. To date, no “Action Proposal” for revising the *Dispersant Guidelines* has been approved by the Science and Technology Committee (STC), which is a step that needs to occur prior to the Action Proposal being submitted to the Alaska RRT for approval. The U.S. Coast Guard (USCG) STC Tri-Chairperson talked at the 2/18/09 Alaska RRT meeting about a “way forward,” on the *Dispersant Guidelines*; however, there was no request made for Alaska RRT approval on the “way forward,” nor was a written Action Proposal presented to Alaska RRT members. As stated above, any such request would have been premature, since the STC had not yet reached agreement on the Action Proposal. The Action Proposal needs to follow the Alaska National Response Team (NRT)/RRT work flow process.
- It is unclear which Action Proposal is the current proposal. The Action Proposal distributed to STC members for discussion at the 2/5/09 STC meeting was dated August 2008. The summary of the 2/5/09 STC meeting indicated that revisions to the Action Proposal (dated August 2008) were discussed; however, no revised Action Proposal was prepared and provided to the STC. The Action Proposal distributed for comment at the 5/22/09 Dispersants Stakeholders meeting was dated 7/28/08. However, information on the Action Proposal included in the Power Point presentation at the meeting did not “match” all of the information in the 7/28/08 Action Proposal. As noted below, the Action Proposal needs additional work by the STC.
- On 2/13/09, Alaska RRT members were provided a copy of a request by Captain Mark Hamilton (who was then serving as the USCG Sector Anchorage Federal On-Scene Coordinator [FOSC]) for additional STC work related to dispersant use. This request, which is in addition to revising the *Dispersant Guidelines*, has not yet been submitted to the Alaska RRT Executive Secretariat for consideration in accordance with the Alaska NRT/RRT work flow process. Instead, a Dispersant Science Team was established. It was not until a DOI Bureau representative was contacted by the Dispersant Science Team Chairperson and asked to represent DOI on the team that we became aware that a Dispersant Science Team had been formed; had held one meeting; and was seeking funding from the USCG for a meeting in Seattle. The additional work requested in the 2/13/09 letter from Captain Hamilton needs to follow the Alaska NRT/RRT work flow process.

Science and Technology Committee: Membership

- It is unclear who the STC members (and their alternates) are, and who those members represent. This needs to be clarified.
- The STC needs to develop and implement a plan to afford representatives of Federally-recognized tribes the opportunity to participate in the *Dispersant Guidelines* revision process so their interests are represented.
- The STC needs to develop and implement a plan to identify any additional stakeholder groups (e.g., the fishing industry) who may have an interest in participating in the *Dispersant Guidelines* revision process, and then inviting each of those stakeholder groups to identify an individual to represent their respective interests.
- The identification of additional STC members needs to be completed prior to finalization of the Alaska RRT Action Proposal so that all STC members have the opportunity to provide input to the Action Proposal prior to its submittal to the Alaska RRT.

Science and Technology Committee: “Best Practices”

- All STC members need to be included in, or have the opportunity to, provide comments on STC work and STC decisions and to receive all committee-related correspondence and to participate in all STC meetings. Examples of where this has not occurred include (but are not limited to) the following:
 - “Decisions” made at the 2/5/09 STC meeting, when not all STC members were present. There was no post-meeting correspondence to STC members seeking their input, comments, and/or concurrence on “decisions” or actions taken at the meeting.
 - Representations were made to Alaska RRT members at the 2/18/09 Alaska RRT meeting that “decisions” made at the 2/5/09 STC meeting were “endorsed” by all STC members, when that was not the case.
 - Information on the formation of a Dispersant Science Team was not provided to all STC members. This includes who authorized or agreed to the establishment of the group; who the group reports to; the number and names of team members; how they were selected; the purpose (and need) for the team; that the team had held (or planned) one or more meeting(s); and the results of the meeting(s).
 - Information on using the Dispersant Science Team as a “Scientific Advisory Team” was not provided to all STC members. This includes the reason for the change; who authorized or agreed to the establishment of the team; who the team reports to; the number and names of team members; how they were selected; and the purpose (and need) for the team.

Science and Technology Committee: “Best Practices,” cont.

- Information on the details of the 5/22/09 Dispersants Stakeholders meeting was not provided to all STC members prior to the distribution of the meeting announcement. As a result, the entire STC did not have the opportunity to provide input on the meeting time, location, purpose, presenters, invitees, and whether it was appropriate for the meeting to be held.
- Meetings of the STC and STC-related “groups” need to be held at a time and location that facilitates participation by all members. STC and other “group” members need to not only be consulted, but they need to be consulted well ahead of time when meetings are proposed, including the meeting purpose, date, time, and location. STC members need to be informed of all meetings of the STC and STC-related “groups.”
- The full STC, rather than a subset of the STC (e.g., the STC Tri-Chairpersons) need to be the “decision-making body” of the STC. This also applies to any STC-related “groups.”
- Teleconferencing for STC members and other interested parties needs to be made available at STC meetings. There are meeting rooms at the Federal building and elsewhere in Anchorage that are available for STC meetings at no cost and which also have teleconferencing capabilities.
 - Holding the 5/22/09 Dispersants Stakeholder meeting without teleconferencing capabilities unnecessarily excluded input from partners (including one DOI Bureau representative based in Seward) and stakeholders. This has also been the case during the last three STC meetings.
 - Holding the Dispersants Stakeholders meeting on a Friday, which was also immediately prior to a 3-day State and Federal holiday, also excluded input from partners (including 3 DOI Bureau representatives) and stakeholders.
 - The Dispersants Stakeholders meeting announcement was not provided to Federally-recognized tribes, nor did the meeting announcement include an agenda identifying presenters and time allocated for comments, nor did the announcement provide appropriate and necessary background information (e.g., a copy of the Action Proposal) for individuals interested in attending the meeting and providing comments.
 - The meeting announcement was sent only 2 weeks prior to the meeting, thereby providing notice that was too short.
- The STC Charter needs to be reviewed to address (among other topics) the items listed above.

Science and Technology Committee Meeting (2/5/09)

- As stated above, while a “way ahead” was “developed” at the meeting, the Action Proposal was not revised and submitted to all STC members for their review. This step is important since there were no State or Federal natural resource trustees at the meeting. At a minimum, because one of the primary goals of responses to oil discharges is protecting the environment, is it important to ensure that Federal and State natural resources trustees who have trust responsibility for the majority of resources potentially affected by the discharge or resulting response activities, are afforded the opportunity to have meaningful participation in these activities.
- The statement that was discussed at the meeting for inclusion in Annex F of the Unified Plan that “Pre-approval remains in effect except that prior to using dispersants in Zone 1, the FOSC shall consult with DOI as practicable” is in conflict with Section 300.910 of the *National Oil and Hazardous Substances Pollution Contingency Plan (NCP)*. Effective 9/27/08, to obtain authorization for the use of dispersants anywhere in Alaska, FOSCs need to follow the concurrence and consultation process outlined in Paragraph (b) of Section 300.910 of the *NCP*.
- It is inappropriate for non-natural resource trustee agencies/entities to identify who would serve as the “Federal Resource Trustee” on any committees or working groups. That decision is the responsibility of the Federal natural resource trustees.

Dispersants Stakeholders Meeting (5/22/09)

- The email announcement for the Dispersants Stakeholders meeting did not differentiate between STC members and advisors and Alaska RRT members and other stakeholders. Additionally, the meeting room was arranged so that STC members sat in the “audience” with other meeting participants and provided comments to the STC Tri-Chairs. Because consensus had not been previously reached by the STC on the Action Proposal and due to the physical layout of the meeting, STC members in the “audience” were placed in an unusual and awkward position of making comments regarding both the Action Proposal and the STC process, rather than receiving comments from interested parties.
- Meeting participants received an agenda, which included opening remarks by the STC Tri-Chairs and discussions/presentations by the USCG STC Tri-Chair, an Alaska Department of Environmental Conservation State On-Scene Coordinator, and the National Oceanic and Atmospheric Administration Scientific Support Coordinator. A “last minute” presentation on “Dispersant Application” by an oil industry consultant/representative was added by the STC Tri-Chairs. This additional presentation reduced the amount of time allow for stakeholder comments and raised potential conflict-of-interest questions. At the same time, , no opportunity was afforded to Federal or State natural resource trustees to present an overview/discussion on dispersant use from their respective perspectives.

Science and Technology Committee Meeting (2/5/09), cont.

- The presentation on the existing *Dispersant Guidelines* did not provide meeting participants with correct information on the dispersant use zones in Prince William Sound (PWS) and Cook Inlet. As stated above, effective 9/27/08, to obtain authorization for the use of dispersants anywhere in Alaska, FOSCs need to follow the concurrence and consultation process outlined in Paragraph (b) of Section 300.910 of the *NCP*. Dispersant use is no longer preauthorized in PWS or Cook Inlet.

Action Proposal (dated 7/28/08)

- There is confusion regarding the various “groups” working on dispersant-related topics, including (1) who authorized their formation; (2) how they were formed; (3) who makes up each group; (4) each group’s roles and responsibilities; and (5) whether each group is needed. For example, this Action Proposal includes the Science and Technology Committee, a Dispersant Working Group, and a Dispersants Guidelines Drafting Group. In addition (as noted above), a Dispersant Science Group has been formed and during the 5/22/09 Dispersants Stakeholders meeting, it was stated that the Dispersant Science Group has become a “Scientific Advisory Team.” The STC needs to clearly identify and clarify information related to each of these groups and include resulting information in a revised Action Proposal.
- This Action Proposal needs further discussion and revision by STC members. Information to be discussed includes, but is not limited to the following:
 - Goal/Objective: It is not clear what “Maintain general dispersant zonal designations, possibly modifying them (PWS and CI) and expanding them to other areas.” means in terms of revising the *Dispersant Guidelines*.
 - Limitations/Constraints: It is unclear why this heading is included in the Action Proposal.
 - Initial Kick-Off Meeting: This section needs to include how “interested parties” will be identified and their input solicited.
 - Dispersant Guidelines Drafting Group: Until the STC clarifies what information needs to be included in the revised *Dispersant Guidelines*, the identification of group members is premature.
- The Action Proposal needs to be reviewed to determine whether it includes all of the information required in the Alaska NRT/RRT work flow process, and if not, appropriate revisions need to be made.
- The Action Proposal needs to be developed, approved, and implemented in accordance with the Alaska NRT/RRT work flow process.

Dispersant Guidelines

- The full STC needs to reach consensus on what revisions need to be made to the *Dispersant Guidelines*. We recommend that this be accomplished via an annotated outline identifying what will be included in the revised *Dispersant Guidelines*. Once that is accomplished, the STC can identify a subgroup of appropriate representatives to prepare the agreed-upon revisions. To select the individuals who will prepare the draft revisions prior to identifying what revisions need to be made is premature.
- A copy of the revised draft *Dispersant Guidelines* prepared by the STC Dispersants Working Group in 2003-2005, along with the existing *Dispersant Guidelines* need to be reviewed by the STC when determining what information needs to be included in the revised *Dispersant Guidelines*.
- The STC needs to consider relying on information in the 2005 National Research Council *Oil Spill Dispersants Efficacy and Effects* in the revisions to the *Dispersant Guidelines*.
- It has been proposed that the *Dispersant Guidelines* require the use of SMART protocols for monitoring for the effectiveness of a dispersant application. Recommendations made in the August 2008 “Update SMART Protocol for Monitoring Efficacy of Oil Spill Dispersant Operations: Proceedings of the Stakeholder Workshop” by the USCG, Minerals Management Service, and SL Ross, need to be considered in the revision of the *Dispersant Guidelines*. The *Dispersant Guidelines* need to include information on the details of how appropriate monitoring will be conducted during the incident.
- Using the RRT “private web site” for sharing and distributing documents associated with revising the *Dispersant Guidelines* would be useful.

Conclusion: The STC needs to meet to discuss comments received during (or following) the 5/22/09 Dispersants Stakeholder meeting to determine an appropriate “way forward” for revising the *Dispersant Guidelines*. The STC also needs to ensure its activities are conducted in a manner that is transparent, participatory, and collaborative in order to promote Government efficiency and effectiveness and ensure the public trust.