



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

OCT 25 2011

THE ADMINISTRATOR  
FEB 21 2012  
DOCUMENT CONTROL SECTION  
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The Honorable Gene Dodaro  
Comptroller General of the United States  
Washington, D.C. 20515

Dear Mr. Dodaro:

I am reporting a violation of the Antideficiency Act as required by 31 U.S.C. §1351. The violation occurred in the U.S. Environmental Protection Agency's Oil Spill Response Account, Treasury Appropriation Symbol 68X8221, in the amount of \$502,215.

The violation occurred on November 18 and 19, 2010, when the EPA made expenditures in excess of the funds available in the account. The EPA was participating in the response to the Deepwater Horizon oil spill while simultaneously responding to a major inland oil spill in Enbridge, Mich. The violation was rectified on November 20, 2010, when the EPA was reimbursed with funds from the U.S. Coast Guard.

#### Background

As authorized by the Oil Pollution Act of 1990 and the agency's annual appropriation acts, the EPA may disburse funds from its Oil Spill Response Account for the EPA's response activities in the inland zone. Sources of funds are resources appropriated directly to the EPA and USCG payments to the EPA as advances and reimbursements under an ongoing interagency agreement or incident-specific Pollution Removal Funding Agreement. When the EPA expends its own appropriations, the USCG may reimburse the EPA with funds available to the USCG from the Oil Spill Liability Trust Fund under the Oil Pollution Act.

The agency's Cincinnati Finance Center, within the Office of Financial Services in the Office of the Chief Financial Officer, is responsible for monitoring disbursements and collections to determine the cash balance available. Starting June 1, 2010, the EPA's Cincinnati Finance Center regularly monitored the cash balance throughout the EPA's responses to the Deepwater Horizon and the Enbridge spills. Due to the size of the spills, the Cincinnati Finance Center director would provide to the Office of Financial Services' director at EPA headquarters daily updates on the cash available, projected expenses and reimbursement requests. When the balance was less than \$500,000, the Cincinnati Finance Center would suspend contractor, small-purchase and travel payments until an EPA request for payment was submitted to the USCG and paid to replenish the account. Requests for reimbursements from the USCG were made at least weekly, and, if large disbursements were made, requests were made more frequently.

In July 2010, the EPA requested a cash advance from the USCG due to the large number of contractor invoices being received for Deepwater Horizon response work and the depletion of the EPA's appropriation for normal agency expenses. The USCG agreed to a \$32-million advance, which was provided on August 4, 2010. During the next three months, the EPA liquidated the advance through the payment of contractor invoices along with agency payroll and travel expenses incurred for Deepwater Horizon and Enbridge response work.

To monitor the cash balance regularly during the EPA's response to the Deepwater Horizon and Enbridge oil spills, the EPA developed a monitoring report intended to include all transaction costs that affected the cash balance of the account. While the report identified the details of transactions, it did not include disbursements related to indirect costs. Consequently, the report overstated the available balance. When the error was identified on November 23, 2010, a new and complete report was generated, leading to the discovery of the negative balance on November 18 and 19, 2010.

### Findings

On November 18 and 19, 2010, the EPA expended more than the available cash balance in its Oil Spill Response Account. This violated the Antideficiency Act, specifically 31 U.S.C. 1341(a)(1)(A), which states that an agency cannot "make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation."

The EPA's Antideficiency Act violation was the result of an inadvertent report error. However, limited appropriated funding available to the EPA under the FY 2011 continuing resolutions as well as delays in reimbursement, the lack of additional cash advances from the USCG and the unusual amount of funding required for the Deepwater Horizon and Enbridge oil spills also created unique circumstances, which caused the cash balance to drop to a critically low level. The details are provided in the enclosed chronology of events.

The individual responsible for the Antideficiency Act violation was Jim Wood, director of the EPA's Cincinnati Finance Center. The EPA determined that the director did not knowingly or willfully cause this violation, which occurred during a uniquely challenging time with overlapping oil-spill responses. Although this was an inadvertent violation, he has been counseled, and a more accurate daily disbursement report has been developed. The EPA has concluded that no further disciplinary action is necessary.

At the time of the violation, the administrative-funds control policies in effect called for close monitoring of the available cash balance for the affected account to avoid disbursing funds in excess of the available balance. The policies also indicated that the EPA must ensure that the funds are received from the other agency to avoid an excess obligation or expenditure. If the cash balance fell below \$500,000, further disbursements from the appropriation should have been shut down until the EPA received reimbursements or an advance from the paying agency to replenish the account cash balance.

The EPA's inspector general has been informed of this Antideficiency Act violation.

### Corrective Actions

Since the date of the violation, the EPA's Cincinnati Finance Center has installed several reporting and analysis measures and safeguards. The measures include: establishing a new comprehensive funds-availability report that includes indirect costs distributed from the account, balancing the new report with the fund balance with the Department of Treasury at the end of each month and analyzing the historical monthly expenses to estimate future expenses. In addition, the EPA will revise its administrative funds control policies to change the minimum required available cash balance from \$500,000 to \$2 million or more, if the balance cannot support payment of anticipated fixed costs, and will bill the USCG weekly or when a disbursement of \$1 million or more is made.

The EPA will continue to work with the USCG to improve billing procedures. The EPA, however, must use funds immediately available for expenditure to pay contractors and other expenses, such as payroll and travel. To enable the EPA to continue its expeditious response to oil spills, the President's budget for FY 2012 asks Congress for new statutory authority for emergency transfers from any of the EPA's appropriations into the Oil Spill Response Account when the cash flow of funds out of the account is higher than expected.

I will submit an identical report of this violation to the President and to the presiding officers of each house of Congress. Copies of these letters are enclosed for your information.

Sincerely,



Lisa P. Jackson

Enclosures



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

OCT 25 2011

THE ADMINISTRATOR

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

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Background

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In July 2010, the EPA requested a cash advance from the USCG due to the large number of contractor invoices being received for Deepwater Horizon response work and the depletion of the EPA's

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I will submit an identical report of this violation to the presiding officers of each house of Congress and to the Comptroller General. Copies of these letters are enclosed for your information.

Respectfully,



Lisa P. Jackson

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

OCT 25 2011

THE ADMINISTRATOR

The Honorable Joseph Biden  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

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I will submit an identical report of this violation to the President, the Speaker of the House and the Comptroller General. Copies of these letters are enclosed for your information.

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OCT 25 2011

THE ADMINISTRATOR

The Honorable John Boehner  
Speaker of the House of Representatives  
Washington, D.C. 20515

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