



September 27, 2013

Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
Washington, DC 20460

**Re: U.S. Chemical Safety and Hazard Investigation Board (CSB) Response to
EPA OIG Report 13-P-0337**

Dear Mr. Elkins:

Thank you for the opportunity to review and comment on the final OIG Report 13-P-0337, "U.S. Chemical Safety and Hazard Investigation Board Needs to Complete Investigations More Timely," dated July 30, 2013.

The CSB has completed its review and maintains its position as stated in our June 21, 2013 response to the draft report. In general terms, we agreed with the majority of the recommendations and note that much of what has been recommended here reflects work that is already in progress at the agency.

The CSB offered the following responses to nine recommendations listed in the report:

Recommendation 1 - Develop and implement performance indicators related to its first strategic performance goal and objective to complete timely investigation (*sic*). Indicators should track and measure the efficiency of key phases of the investigation process and clarify the definition of a "timely" completed investigation. Also, address the indicators in the investigation protocol policy.

The CSB agreed with this recommendation and will review the five objectives from the 2012-2016 Strategic Plan related to Strategic Goal 1 to develop and implement performance indicators. In addition the CSB will also look at the remaining eight objectives relating to Goals 2 and 3 to develop performance indicators for those goals as well.

The CSB continually strives to complete its open investigations in a timely manner. However, the CSB's definition of "timely" completed investigation is subject to change based on the deployment to a new incident. With our limited staff, all investigators are

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juggling multiple cases simultaneously. When new incidents occur, this results in shifting investigators' focus onto new cases and slowing the completion of existing ones. In addition, the various investigations span a broad range of industries and hazards; while the proximate cause of one incident may become clear within days, others may require many months of complex study. In addition, cooperation by other parties is highly variable and has a dramatic effect on the speed of completion. The CSB currently estimates completing an investigation as follows:

Major Investigation: 1.5-3 years

Case Study: 1-1.5 years

Safety Bulletin: 1 year

The CSB will review past history and average the length of time it takes to complete various phases of an investigation (i.e., deployment, writing, and review process) and will further consider how best to define "timely" investigations – bearing in mind that there are vast differences in complexity and effort among different cases.

The CSB is analyzing key investigation metrics such as investigator hours, costs and elapsed days to develop performance indicators for various investigation product types. These indicators will be incorporated in the *Investigation Product Development and Review* procedure of the investigation protocol, which will provide timelines for key milestones. Given staff resources and the investigation workload we expect to provide the Board with a draft *Investigation Product Development and Review* procedure for consideration and approval by December 31, 2013.

Recommendation 2 - Revise and publish an annual action plan to comply with GPRA 2010 and update related individual performance plans to ensure that performance indicators are addressed and investigative staff are held accountable for performing key phases in the investigation process.

From our review the only reports required for publishing under GPRA are Strategic Plans, Annual Performance Plans and Annual Performance Reports. The CSB has published an up-to-date Strategic Plan, annual performance-based budgets, and annual performance reports, which we believe meet the requirements of GPRA. The CSB considers its "action plans" as internal, evergreen documents that are developed annually and updated periodically through the year to track initiatives as we strive to accomplish the goals set in our Strategic Plan. We consider action plans to be living documents that must be changed based on inherently unforeseeable incident deployments. The FY 2014 action plan will be developed and updated during the upcoming fiscal year.

Recommendation 3 - Review investigations open for more than 3 years and develop a plan to close out those investigations.

The CSB agreed with the recommendation and provides the following update. Updates for the CSB's open investigations follow:

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Tesoro Refinery (Anacortes) – Final report in preparation; public meeting scheduled for December 2013; video in preparation
NDK – Final report draft in review cycle
Caribbean Petroleum – Final report draft in review cycle
Silver Eagle – Close out plan was developed and will have to be revised in light of major West Fertilizer and Williams Olefins explosions
Packaging Corporation of America – Hot work safety bulletin incorporating findings issued in March 2010; remaining case likely to be proposed for termination
CITGO – Urgent recommendations issued in December 2009; remaining case under review
BP America Refinery Ultracracker Explosion – Likely to be proposed for termination
Horsehead Holding Co. – Likely to be proposed for termination

Terminating certain older cases that have been idle for several years also responds to a stakeholder request from January 2013, allowing materials that were gathered by the Board on these cases to become more readily available for external safety use through the Freedom of Information Act. In addition, the CSB has prepared detailed scoping documents for the completion of all currently open cases initiated after 2010 and selected prior cases, including the West Fertilizer, US Ink, Chevron, Deepwater Horizon/Macondo, and Tesoro investigations. The CSB will agree to update the OIG on the status and plans for closure for all investigations at the end of calendar 2013.

Recommendation 4 - Develop and implement a succession or retention policy to help with any future effects of the turnover rate on CSB's mission.

As discussed above, the CSB's turnover rates, when accurately and fairly calculated, are equal to or less than sector averages. The agency has implemented the following succession/retention initiatives and they have had a positive effect with our workforce, as demonstrated by the fact there has been zero investigative turnover during the past eight months:

1. Student loan payment program – the agency has implemented OPM's program to assist employees paying back student loans. The employees participating in this program are required to commit to three years of service in exchange for the loan payments.
2. Supervisor development – the agency sends managers to at least one management/leadership development class each year in order to ensure they are up to date on the latest techniques for managing and developing our workforce.
3. Employee development – the agency has set up weeklong training sessions twice a year for our investigation and recommendations teams to continue the development of their skill sets.

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4. Improved agency communication – the agency holds quarterly All Hands Meetings to ensure that the entire agency understands the developments of the previous quarter and the challenges for the next quarter.
5. Workplace flexibility – the CSB has expanded opportunities for telework, work from home, remote duty locations, and temporary leave during parenting to ensure the retention of key positions

In addition, the agency is developing or considering the following initiatives that should have a positive effect on both succession and retention:

1. Career ladder – the agency is creating a ladder for the development and advancement of investigation employees, from entry level to lead investigator (or other senior positions)
2. New hire orientation – the agency is developing an orientation process for new investigators to ensure proper integration into the agency.
3. Advance hiring – the agency will use historical vacancy and turnover data to project the number and location of new hires needed for each fiscal year.

Recommendation 5 - As a best practice, involve staff in the planning process of an investigation. Hold meetings between senior management and staff to address any concerns with the investigation process.

Investigation staff are already heavily involved and chiefly responsible for the planning of each investigation; this has always been the case. In the last two years this responsibility has been enhanced with the development of formal scoping documents for each active or new case, as well as recommendations briefs for major proposed recommendations. All these documents are then reviewed by the Board. In any event, the CSB agrees with this recommendation and has already undertaken a number of steps to address the issue. The protocol development team will hold three meetings with investigators and senior staff to identify any concerns with the investigation process. In addition, investigation teams will continue to hold Lessons Learned meetings after returning from a deployment and upon completion of a CSB written product and/or investigation case closure.

The CSB has identified key investigation milestones as a first step in preparing the *Investigation Product Development and Review* procedure of the investigation protocol. Early milestones include scoping documents and project work plans, which will be developed by the investigation team and reviewed by management and the Board; this has already been practiced for some time and has increased staff involvement in the planning process. Key investigation milestones also include report outlines, recommendations briefs, and interim public meetings that should provide opportunities to address concerns with the investigative process. Proposed scoping procedures and templates were presented to the Board for comment in September 2013, and will be

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prepared for Board vote by October 31, 2013. This will be incorporated in the draft *Investigation Product Development and Review* procedure that, as stated above in our comments on Recommendation 1, we expect to provide to the Board for consideration and approval by December 31, 2013.

Recommendation 6 - Review and collocate (*sic*) investigation files for each ongoing investigation to ensure that they contain all the supporting documents related to the investigation. At a minimum, ensure files have proper classifications, project plans, scoping documents and board decisions.

The CSB disagreed with this recommendation.

The OIG's assertions concerning the lack of co-location of files and incorrectly classified or coded investigation files have nothing to do with the completion of final written products. As we have stated on several occasions, the purpose of the TRIM electronic records management system is to hold evidentiary records for investigation team members while they conduct their investigation; TRIM provides word-search capabilities that streamline and enhance investigators' abilities to review and analyze evidentiary materials.

We use TRIM as a tool for searching/reviewing evidence during a case and as a system of archiving once the case is complete. The evergreen planning and scoping documents developed internally by CSB staff would not be included in such a system. Such evergreen documents are often not included in TRIM specifically because the team members do not need such records when reviewing evidence. Scoping/planning documents are management tools used by the team leads, supervisors, and agency leadership to keep abreast of the case; those evergreen records do not hinder or help the team in their review of evidence and, thus, any argument that their lack of placement in TRIM is unrelated to the team's ability to complete the investigations. Also, and very importantly, in the last few years, we have been using Optical Character Recognition (OCR) for most records; once documents are OCR scanned, they become fully word-searchable. The classification ID numbers are not needed if the files are OCR scanned and word searchable. There are many fields that can be used to find documents -- the ID field was an old field needed before documents could be OCR-scanned. Thus, once OCR-scanned, any categorization of the files beyond identification of the investigation the document pertains to become irrelevant, as the investigator can search/find the records needed using a variety of search data fields. We recommend corrections be made to page 17 of the draft report to reflect these facts.

The OIG displays a critical misunderstanding of the TRIM system by the statements it makes in the final paragraph of the Investigation Files section: "Ensuring investigation files are collocated (*sic*) and correctly classified or coded would enable any investigator to easily identify the status of an investigation and compare results from completed investigations. Investigators could more efficiently complete or close out investigations in a timely manner, particularly cases open for more than 3 years." In no way would "correctly classified or coded records" within TRIM enable anyone to easily identify the

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status of an investigation and thus allow individuals to close out cases in a more timely manner; it would merely provide an additional means to locate a specific evidence record within the TRIM evidence database. The coding of evidentiary materials and the need for project management of ongoing cases are two entirely separate issues. The OIG incorrectly assumes that the coding of evidentiary materials somehow relates to the agency's ability to manage its investigative products. This correlation is not correct.

Recommendation 7 - Implement and update the records management policy to ensure that the classification of electronic investigation files agrees with the investigation protocol policy and staffs (*sic*) perform internal reviews of records as required by the policy.

The CSB agreed with this recommendation and will review its Records Management policy and update it by December 31, 2013, to reflect the need for a full OCR scan of the evidentiary case file for each investigation as well as completeness of the case file for official closeout/archiving.

Recommendation 8 - Update the investigation protocol policy for all current investigation procedures to include scoping documents and recommendation briefs. Provide formal training to the investigative staff on changes and updates to the investigative process.

The CSB has been using formal scoping documents for investigations for the past two years and last year began developing selected recommendations briefs for major recommendations. All these tools have proven useful in completing cases that describe an agreed set of issues. The CSB agrees that a more formal policy and standard templates should be developed for these tools. Proposed scoping procedures and templates were presented to the Board for comment in September 2013, and will be prepared for Board vote by October 31, 2013. This will be incorporated in the *Investigation Product Development and Review* procedure of the investigation protocol along with a template for recommendations briefs. As previously stated, we expect to provide the Board with a draft of this procedure for consideration and approval by December 31, 2013. We will then train investigative staff on the procedures within 90 days of Board approval.

Recommendation 9 - Provide guidelines for staff to determine the type of final product in the beginning of the investigation process to help staff be more efficient in completing investigations.

The *Investigation Product Development and Review* procedure of the investigation protocol will identify CSB investigation product types and their attributes. The procedure will also require that the scoping document include a recommended product type and required resources so that the investigation team, management, and the Board have the same expectations and goals for each investigation. Again, proposed scoping procedures and templates were presented to the Board for comment in September 2013,

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and will be prepared for Board vote by October 31, 2013 and draft of the *Investigation Product Development and Review* procedure for consideration and approval by December 31, 2013.

We will continue to keep you abreast of our accomplishments in these areas. Should you have any questions, please contact our audit liaison, Anna Brown, at (202) 261-7639.

Sincerely,



Rafael Moure-Eraso, Ph.D.
Chairperson