

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 21, 2011

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

Recently, the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) completed an investigation into the role the EPA played in the decision to use the dispersant Corexit in the response to the BP Deepwater Horizon oil spill in the Gulf of Mexico.¹ The report issued by the OIG made recommendations for EPA to improve its response during spills of national significance, including reviewing and updating contingency plans and establishing a research plan on the long term health and environmental impacts of dispersants. Numerous questions have been raised about the choice of Corexit and the general effectiveness of dispersants, their inherent toxicity, and the toxicity of dispersed oil.² We need to understand the steps EPA is taking to respond to the recommendations provided by OIG and how the agency is working to incorporate lessons from the BP oil spill into contingency plans for future spills.

Fourteen months have passed since the BP Macondo well was capped and oil flow halted. During the 87-day spill, an unprecedented amount of oil was released into the Gulf of Mexico, making it the worst environmental disaster in U.S. history. Estimates place the volume of oil released at nearly 5 million barrels. As part of the efforts to mitigate the impacts of this catastrophic oil spill, millions of gallons of chemical dispersant were added to the Gulf waters, contributing to a toxic stew of chemicals, oil and gas with impacts that still are not fully understood. At the time of dispersant deployment, information regarding the efficacy and toxicity of the dispersants on the National Contingency Plan (NCP) product schedule was scarce. Responders first used dispersants on April 22, 2010. The first product selected was Corexit EC9527A, and when standing supplies of EC9527A were depleted, Corexit EC9500A became the primary dispersant to be used during the response. A few weeks later, for the first time in U.S. history, the U.S. Coast Guard (USCG) and EPA authorized BP to apply dispersants at the site of the leak, over one mile below the ocean surface.

¹ <http://www.epa.gov/oig/reports/2011/20110825-11-P-0534.pdf>

² http://markey.house.gov/index.php?option=com_content&task=view&id=4391&Itemid=386

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³ This untested approach was selected to reduce shoreline impacts and reduce surface application of dispersant, but is believed to have contributed to the formation of large plumes of underwater oil whose impacts have not and never may be fully understood.

In light of environmental concerns about dispersants, during the spill, I sent several letters to the EPA raising concerns about the choice of Corexit and the paucity of data on dispersants being used in such volumes and under unprecedented subsurface conditions.⁴ Now that the oil has stopped flowing from the Macondo well, I am writing to determine what steps EPA has taken and plans on taking to ensure that future spill mitigation agents, such as dispersants, have undergone appropriate testing for real response situations prior to their deployment in our waterways. Therefore, I ask that you respond to the following questions:

1. What types of revisions does EPA plan on making to the way in which dispersants are evaluated for addition to the National Contingency Plan (NCP) Product Schedule? Do these plans take into account long-term non-fatal impacts on marine life? Human exposure? Subsurface use at low temperatures and high pressure? Testing on crude oil? Any other lessons learned from the BP Deepwater Horizon oil spill response? Please fully describe all such revisions.
2. How will the information and lessons gained from the BP Deepwater Horizon oil spill response be used to review and update area and regional contingency plans? Does EPA plan on developing a policy that would require for periodic reviews and updates to contingency plans? If so, what is the timeframe contemplated for the completion and implementation of such a policy? If not, why not?
3. In the plans to revise the NCP, does EPA intend to request and maintain information from the dispersant manufacturer in terms of production capacities and other information that would help the response community better prepare for future oil spills? If not, why not?
4. Does EPA plan on modifying policies and procedures for the duration and volume of dispersant used when applied on the surface of an oil spill? How will these plans take into account lessons learned from Deepwater Horizon and other major national and international oil spills? Please fully describe all such modifications.

³ Ibid.

⁴ <http://markey.house.gov/docs/ejmdispersant51710.pdf> and
http://markey.house.gov/docs/062410_ejm_dispersant_epa_attachment.pdf

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5. Does EPA plan on developing policies and procedures for the duration and volume of dispersant used when applied subsurface? How will these plans take into account lessons learned from Deepwater Horizon and other major national and international oil spills? Please fully describe all such policies and procedures.
6. Will EPA develop guidance that clarifies roles and responsibilities for high-level Agency officials when responding to a Spill of National Significance? How will EPA work with its federal partners to develop this guidance?

Thank you for your assistance and cooperation in responding to this request. Should you have any questions, please have your staff contact Dr. Michal Freedhoff of the Natural Resources Committee Democratic Staff or Dr. Avenel Joseph of my staff at 202-225-2836.

Sincerely,


Edward J. Markey