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Congress of the United States
House of Representatives
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WASHINGTON, DC 20515–6115
Majority (202) 225–2927
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August 5, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Comptroller General Dodaro:

We write to request that the U.S. Government Accountability Office (GAO) investigate the federal government's oil spill response capabilities, including the use of chemical dispersants and efforts to incorporate lessons learned from the response to the 2010 *Deepwater Horizon* oil spill. The Trump Administration's misguided proposals to expand drilling in most U.S. continental-shelf waters[1] and rollback of important offshore drilling safety regulations[2] may increase the risk of another catastrophic spill. It is imperative that the federal government is adequately prepared to respond to offshore oil spills.

The *Deepwater Horizon* oil spill was the largest oil spill in U.S. waters in history, with the height of the response involving nearly 47,000 workers.[3] Responders to the disaster applied an unprecedented volume of chemical dispersants (1.8 million gallons) in the cleanup and used an approach for applying dispersants in deep water at the source of the wellhead that had not

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[1] Department of the Interior (DOI), *Secretary Zinke Announces Plan for Unleashing America's Offshore Oil and Gas Potential,* (Jan. 4, 2018) (press release). Following an April 2019 court decision, the Interior Department put on hold plans to open most of the coastline for offshore oil drilling but has not indicated it would permanently abandon such plans, and some have speculated the Department would still proceed following resolution of a legal action. See *Interior Dept. Delays its Plan to Open U.S. Coastline to Drilling*, New York Times (Apr. 25, 2019).

[2] *Interior Dept. Loosens Offshore-Drilling Safety Rules Dating from Deepwater Horizon*, New York Times (May 2, 2019).

[3] Congressional Research Service, *Deepwater Horizon Oil Spill: Recent Activities and Ongoing Developments* (rev. Apr. 17, 2015) (R42942).

previously been used or planned.[4] Following the oil spill, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling issued recommendations on the use of dispersants, concerning dispersant test protocols, government approvals, and topics for further research areas, including on the impacts of high-volume and subsea dispersant use.[5]

In May 2012, GAO reported that relatively few federal research projects had examined the use of dispersants subsurface or in the Arctic, and recommended that more research be conducted on biodegradation rates for oil spills in the Arctic.[6] GAO also reported that support for dispersant research has fluctuated, with temporary increases following a major spill, making it difficult for federal agencies to fund studies long term.[7] In January 2019, GAO reported that members of the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR) funded over 100 oil spill research projects each year from fiscal years 2011 through 2017, and that the interagency committee had improved the coordination of federal oil spill research efforts.[8] In the spring of 2019, the National Academies of Sciences, Engineering, and Medicine also released a new report on the efficacy of using dispersants in response to marine oil spills and its effects on human health and the environment.[9] Although significant research has been done following the *Deepwater Horizon* response, it appears there still may be remaining uncertainties with respect to the use and efficacy of dispersants.[10]

Based in part on considerations learned from the *Deepwater Horizon* response, in 2015, EPA proposed a series of changes to the regulations governing chemical dispersants used in oil spills.[11] According to EPA, the proposed changes were intended to help ensure that chemical and biological dispersants have met efficacy and toxicity requirements, and that product

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[4] GAO, *Oil Dispersants: Additional Research Needed, Particularly on Subsurface and Arctic Applications* (May 2012) (GAO-12-585).

[5] National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Report to the President, Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling*, at 271 (Jan. 11, 2011).

[6] GAO, *Oil Dispersants: Additional Research Needed, Particularly on Subsurface and Arctic Applications* (May 2012) (GAO-12-585).

[7] *Id.* at 39-40.

[8] GAO, *Offshore Oil Spills: Restoration and Federal Research Efforts Continue, but Opportunities to Improve Coordination Remain* (Jan. 3, 2019) (GAO-19-31).

[9] National Academies of Sciences, Engineering, and Medicine, *The Use of Dispersants in Marine Oil Spill Response* (Apr. 2019).

[10] M. Mitchell Waldrop, *The Perplexing Physics of Oil Dispersants*, Proceedings of the National Academy of Sciences of the United States (May 28, 2019).

[11] *National Oil and Hazardous Substances Pollution Contingency Plan*, 80 Fed. Reg. 3380 (Jan. 22, 2015) (proposed rule).

manufacturers provide important use and safety information.[12] However, EPA has yet to finalize the updates to the regulations, which were last revised in 1994.[13] At a briefing for Energy and Commerce Committee staff on July 23, 2019, leadership from EPA's Office of Emergency Management reported that the Agency does not intend to finalize these important regulatory updates until 2022, at the earliest.[14]

We request that GAO review what actions federal agencies have taken to incorporate the latest science and lessons learned on the use of dispersants for oil spill planning and response, and specifically address the following questions:

1. What is known about the efficacy of using dispersants and their effects on human health and the environment, and specifically:

   a. To what extent have federal agencies conducted studies on the effective and safe use of dispersants, and, in particular, long-term studies of the residual effects of the use of dispersants on the environment and human health, as well as studies of the impacts of rising ocean temperatures on dispersant efficacy and risks;

   b. If studies have been conducted, what did they find; and

   c. What research gaps remain, if any, in the federal agencies' understanding of the use of dispersants to address offshore oil spills?

2. To what extent have federal agencies, such as EPA and the U.S. Coast Guard, incorporated lessons learned and the latest research on dispersants into offshore oil spill response planning protocols, policies, and regulations?

   a. How have agencies integrated this information and research?

   b. What gaps remain in agency response planning protocols, policies, and regulations with regard to the efficacy and use of dispersants?

   c. What challenges or limitations exist that could prevent or undermine agencies' ability to incorporate lessons learned and the latest research on dispersants, if any?

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[12] EPA, *Fact Sheet: Proposed Changes to Subpart J of the National Contingency Plan* (Jan. 2015) (www.epa.gov/emergency-response/fact-sheet-proposed-changes-subpart-j-national-contingency-plan).

[13] *National Oil and Hazardous Substances Pollution Contingency Plan*, 80 Fed. Reg. 3380 (Jan. 22, 2015) (proposed rule).

[14] Briefing by Reggie Cheatham, Director, EPA Office of Emergency Management, to House Committee on Energy and Commerce Staff (Jul. 23, 2019).

Thank you for your attention to this request. If you have any questions or need further information, please contact Judy Harvey or Jon Monger of the Committee staff at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.
Chairman

Diana DeGette
Chair
Subcommittee on Oversight
and Investigations

Paul D. Tonko
Chairman
Subcommittee on Environment
and Climate Change

cc: The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce
The Honorable Brett Guthrie, Ranking Member, Subcommittee on Oversight and Investigations
The Honorable John Shimkus, Ranking Member, Subcommittee on Environment and Climate Change