



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

May 16, 2022

OFFICE OF  
LAND AND EMERGENCY  
MANAGEMENT

Ms. Colette Pinchon Battle, Esq.  
Executive Director  
Gulf Coast Center for Law & Policy  
620 Oak Harbor Boulevard  
Slidell, Louisiana 70458

Dear Ms. Battle:

Thank you for your letter of September 30, 2021, to U.S. Environmental Protection Agency (EPA) Administrator Michael S. Regan, sharing your concerns regarding the use of dispersants during the 2010 Deepwater Horizon (DWH) spill response and the proposed and final Subpart J revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

In your letter, you specifically highlighted two requests relative to the recent court decisions. With respect to your request that the agency not appeal the district court decision, the EPA and the Department of Justice decided not to pursue an appeal, and the deadline for appealing the decision has passed. Further, the agency recognizes the importance of meeting the court-ordered deadline of May 31, 2023, and is working through its action development process to ensure a final action by that date.

You also identified potential health concerns for communities and first responders during an oil spill response associated with the use of chemical dispersants. The EPA recognizes the importance of ensuring public health when responding to an oil spill. The agency partners with other federal agencies to implement the NCP regulations. Under these regulations, the government has specific public health roles and responsibilities through the designated On-Scene Coordinator (OSC). During a response, the OSC has broad authority to address substantial threats to public health or welfare of the United States. The U.S. Coast Guard (USCG) is the designated OSC for discharges in the coastal zone. During DWH, the USCG OSC was supported by multiple agencies, including the EPA, in performing air monitoring activities to inform the response.

Protecting first responders is another key priority for the agency. The EPA, working in coordination with National Response Team (NRT) partner agencies, took action to address health concerns potentially associated with dispersant use raised in recent publications. In 2018, the NRT issued guidance to the Regional Response Teams (RRTs) following the Gulf Long-term Follow-up (GuLF) study conducted by the National Institute of Environmental Health Sciences (NIEHS), and the DWH Oil Spill USCG Cohort study conducted by the Uniformed Services University, USCG, and other federal and academic institutions. The NRT guidance highlighted the importance of ensuring responder safety during oil spill responses and directed worker health and safety protocols to continue being implemented to offer the maximum levels of protection.

Further, in 2021, the NRT Worker Health and Safety Subcommittee issued the *On-Shore and Off-Shore PPE Selection Matrix for Oil Spill Exposures*, updating the original matrix developed in 2010 during the DWH response. This guidance provides recommendations on protective equipment for workers who respond to oil spills, reflecting advancements in safety equipment and best practices achieved over the last decade.

The EPA is committed to protecting the environment, including ocean ecosystems. In your letter, you emphasized the importance of considering current science in relation to dispersant use. EPA continues to be engaged in understanding the latest science regarding dispersant use. For example, the U.S. Government Accountability Office (GAO) recently published a report entitled: *Offshore Oil Spills: Additional Information is Needed to Better Understand the Environmental Tradeoffs of Using Chemical Dispersants*. Among the GAO's recommendations was for the EPA to work with the USCG and other agencies to examine the potential effects of the subsurface use of dispersants on ocean ecosystems. The agency agreed with the recommendations and is committed to provide support to the USCG and coordinate with the National Oceanic and Atmospheric Administration and other federal agencies as appropriate to carry out this important work.

Further, the NCP regulations include opportunities for public engagement in oil spill preparedness planning. The public can participate in regular meetings for Area Committees (ACs) and RRTs. Announcements for these meetings can be found on the *NRT Regional Response Teams* website by accessing the Home Page for the RRT region of interest. These opportunities allow the public to highlight new science for consideration and bring community perspectives into planning and preparedness efforts.

Again, thank you for your letter. If you have any additional questions, please contact Patricia Gioffre at [gioffre.patricia@epa.gov](mailto:gioffre.patricia@epa.gov) or (202) 564-1972.

Sincerely,  
  
Barry N. Breen  
Acting Assistant Administrator