

EMBARGOED UNTIL 6:00 AM EASTERN (U.S.) AUGUST 19, 2024

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*Re: Adoption of Guidelines in the Globally Harmonized System to Ensure That
Hazard Communications Are Based on Accurate and Updated Information
Concerning the Impacts or Potential Impacts
of a Product to Human Health or the Environment*

Dear Madams and Sirs,

We are writing to advocate adoption of guidelines in the United Nations' Globally Harmonized System of Classification and Labelling Chemicals (GHS) to ensure that hazard communications under this system are based on accurate and updated information concerning the impacts or potential impacts of a product to human health or the environment. Specifically, my concerns are the current lack of guidelines to encourage submittal of quality information that is accurate, relevant, and timely on product Safety Data Sheets, and the impact on people and the ocean (a transboundary environment) when inaccurate, misleading, and outdated information is currently accepted and globally harmonized.

The recent experience in the United States of relying on Safety Data Sheets to provide accurate information about health hazards of Corexit oil dispersants during the 2010 British Petroleum Deepwater Horizon oil spill in the Gulf of Mexico was demonstrably disastrous.¹ It resulted in two policy changes in hazard communication. First, the United States Occupational Health and Safety Administration modified its hazard communication standard in 2012 to conform to the United Nations' GHS.² However, this alone proved insufficient to guarantee quality information in the Safety Data Sheets that are included in this system.

For example, the post-2010 oil disaster studies that investigated potential associations between dispersant use and adverse human health impacts largely rewrote what was known or presumed to be true prior to this disaster. Key studies, compiled in a petition to the United States Environmental Protection Agency,³ found that these Corexit dispersants are potent respiratory and skin sensitizers that cause chronic breathing difficulties and reoccurring skin rashes; potent carcinogens that trigger multiple cancer pathways; potent neurotoxins that cause brain damage such as central sensitization (hypersensitivities to smells, sounds, and light, often associated with migraines); and potent teratogens that disrupt development of fetuses. These dispersants also cause specific damage to the blood, respiratory, and cardiovascular systems, the peripheral nervous system, causing numbness and pain in the hands and/or feet, and the central nervous system,

¹ Sneath S, Laughland O. 2023. "They cleaned up BP's massive spill. Now they're sick – and want justice," *The Guardian* 4/20/2023. <https://www.theguardian.com/environment/2023/apr/20/bp-oil-spill-deepwater-horizon-health-lawsuits>

Loller T, M Phillis, 2024. Once praised, settlement to help sickened BP oil spill workers leaves most with nearly nothing. *Associated Press News* 4/18/2024. <https://apnews.com/article/gulf-spill-lawsuits-bp-health-chemical-exposure-f3845a3cb9da869d2689452a7dec0c9c>

Loller T, M Phillis, 2024. BP defeated thousands of suits by sick Gulf spill cleanup workers. But not one by a boat captain. *Associated Press News* 4/19/2024. <https://apnews.com/article/gulf-spill-lawsuits-bp-health-chemical-exposure-03ed7080ea6e03fc344a1e2100cb33e1>

² OSHA, 2012. US Department of Labor's OSHA revises Hazard Communication *Standard*. Regulation protects workers from dangerous chemicals, helps American businesses compete worldwide. OSHA National News Release. <https://www.osha.gov/news/newsreleases/national/03202012>

OSHA, 2012. OSHA Brief. Hazard Communication Standard: Safety Data Sheets. DSG-BR-3514 2/2012. <https://www.osha.gov/sites/default/files/publications/OSHA3514.pdf>

³ ALERT and GAP, 2024. Appendix B: Manufacturer's Statements, Facts, and Findings, and Tables 1–5. <https://alertproject.org/wp-content/uploads/2024/08/EPA-stand-alone-Appendix-B.pdf>. Full petition [here](#).

affecting memory, emotions, behavior, and loss of tolerance to chemicals, sound, and light. Almost none of these scientific findings, or the reports of human experience from respiratory or skin contact with Corexit dispersants, were communicated in the latest available Safety Data Sheets (2019).

However, the second policy change in hazard communication may deliver quality information in technical material supplied by a manufacturer for product registration. In 2023, the United States Environmental Protection Agency (Agency) modified its rules governing dispersant use to include a publicly accessible removal process for products.⁴ Grounds for product removal include, among other things: (1) statements in the technical material provided by the manufacturer to the Agency that are misleading, inaccurate, outdated, or incorrect regarding product use to control oil spills; or (2) failure of the manufacturer to report new or relevant information concerning the impacts or potential impacts of the product to human health or the environment.⁵

This court-driven policy change is having immediate effects.⁶ The manufacturer of Corexit dispersants stopped making and selling these products in November 2022, and it stopped supporting the technical material required for product registration in July 2023.⁷ In May 2023, the International Association of Oil and Gas Producers established a Dispersants Task Force to explore and resolve issues such as determining *where else in the world* the global stockpiles of

⁴ EPA, 2023. National Oil and Hazardous Substances Pollution Contingency Plan; Product Schedule Listing and Authorization of Use Requirements. Final action on EPA-HQ-OPA-2006-0090, RIN 2050-AE87, document number 2023-11904. 88 FR 38280 6/12/2023, effective 12/11/2023.

⁵ 40 CFR §300.970. Removal of a product from the NCP product schedule or sorbent product list. "(a) The EPA Administrator or designee may remove your product from the NCP Product Schedule or the Sorbent Product List for reasons including, but not limited to:

"(1) Statements or information that are misleading, inaccurate, outdated, or incorrect regarding the composition or use of the product to remove or control oil discharges made to any person, or private or public entity, including on labels, advertisements, technical literature, electronic media, or within the product submission to EPA; or...

"(4) New or relevant information not previously considered concerning the impacts or potential impacts of the product to human health or the environment."

<https://www.ecfr.gov/current/title-40/section-300.970>

⁶ Lipinski RL, Mandell-Rice JR, 2021. The death knell for dispersants? *VanNess Feldman Alerts*. 8/17/2021. <https://www.vnf.com/the-death-knell-for-dispersants>

⁷ Corexit Environmental Solutions, 2023. Announcement. January 20. <https://alertproject.org/wp-content/uploads/2024/04/corexitenviro.pdf>

This is the second time that the manufacturer has taken action to discontinue Corexit 9527A. The product was reformulated in the 1990s after OSHA Sweden found respiratory and skin uptake in human subjects of 2-butoxyethanol, an ingredient. However, the manufacturer then continued to make and market Corexit 9527A and the less toxic alternative, Corexit 9500A.

Johanson G, Boman A (National Institute of Occupational Health, and Dept. of Occupational Medicine, Univ. Hospital, Sweden), 1991. Percutaneous absorption of 2-butoxyethanol vapour in human subjects. *Brit J Industrial Med*, 48:788–792. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1035455/>

SL Ross Environmental Research Ltd. 2002. Assessment of the use of dispersants on oil spills in Californian marine waters. Archived.

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these discontinued Corexit dispersants could be used—and whether “indemnification requirements for certain products can be met.”⁸

The industry reaction and stated intent to use global stockpiles of these discontinued Corexit products for marine oil spill response in countries outside the United States makes it very clear that the United Nations’ existing guidelines for hazard communication in the GHS are insufficient to guarantee quality information in the Safety Data Sheets. The whole point of such a System, it seems, is to provide consistently reliable information to any country to make informed decisions regarding product use of a potentially hazardous product for any purpose, not necessarily for an oil spill.

Adopting guidelines like the truth-in-reporting rules in the United States would achieve this desired outcome. In the interim, please consider that a product manufacturer who has voluntarily discontinued manufacture and sale of a popular product may have liability concerns about product use. I would, therefore, also advocate that the United Nations adopt an emergency GHS guideline to remove from the GHS any product that has been voluntarily discontinued by the manufacturer, including the Corexit dispersants, effective immediately.

Please contact me if further information is needed to achieve this goal. Thank you in advance for taking time to consider and respond to my request. I look forward to working with you on this matter.

Most sincerely,

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⁸ International Association of Oil and Gas Producers, 2023. Corexit Availability – Update to Members and Industry. May 2023. https://www.iogp.org/wp-content/uploads/2023/06/IOGP_COREXIT-Update-Letter-to-Industry-Participants-May-2023.pdf