

November 6, 2024

Alaska Department of Environmental Conservation
Attn: Teresa Melville, Division of Spill Prevention and Response
EMAIL: teresa.melville@alaska.gov

Requests for immediate action regarding oil spill response products to:

- (1) Refuse to use the discontinued oil dispersants Corexit 9527A and Corexit 9500A as a matter of liability, effective immediately, and revoke state approval of preauthorization of these products *in federal waters adjacent to state waters*;
- (2) Engage in decision-making with federal partners regarding dispersant use in *state waters and adjacent federal waters*, as part of Area and Regional Contingency Plans; and
- (3) Adopt a precautionary approach regarding dispersant use, as part of Area and Regional Contingency Plans, effective immediately and until the new Product Schedule is updated with safer, less toxic products on December 12, 2025.

Dear Ms. Melville,

We are writing regarding use of Corexit dispersants 9527A and 9500A in state waters and adjacent federal waters. Our Alaska-based organizations represent residents who depend on a healthy ocean for economic, environmental, and personal reasons. During a large oil spill, some of our members would serve—or have served—as citizen responders or volunteers to assist with spill response. We live with the toxic consequences of products used during oil spill response. We ask for accountability.

It is now irrefutable: Use of these Corexit dispersants during an oil spill have proven to cause more harm, as oil-dispersant mixtures in air and water, than the oil alone. These products have no place in our state's oil spill toolkit, no place in our state waters, and no place in the adjacent federal waters that make a continuous habitat for marine life that supports our economy and our wellbeing.

As the lead agency for Alaska on oil spill prevention, preparation, and response, you and your team are responsible for development, implementation, and updating Area Contingency (C-) Plans in collaboration with federal partners. We have three concerns regarding use of oil dispersants Corexit 9727A and Corexit 9500A that require immediate attention.

First, these Corexit dispersants are allowed under the Area C-Plans for oil spill response in state waters and adjacent offshore federal waters. However, these products were discontinued by

the Manufacturer in November 2022. Yet existing stockpiles of these products remain available for use.

Further, EPA was petitioned in August 2024 to remove these dispersants from the National C-Plan Product Schedule, effective immediately, on the grounds that the Corexit manufacturer provided statements to the EPA on its 2019 Safety Data Sheets that were misleading, inaccurate, outdated, or incorrect regarding product use to control oil spills and, also, that the manufacturer failed to provide new or relevant information concerning the impacts or potential impacts of the product to human health or the environment.¹

As you know, the EPA does not *require* use of these Corexit products. The state lead agency and the federal co-chairs of the Regional Response Team (the EPA and US Coast Guard) decide what dispersants are to be used, if any, during an oil spill response. Federal or state authorization of use of these Corexit dispersants transfers the responsibility for harm to human health and the environment to the authorizing entities. While this has always been the case, this liability is now considerable, given that Corexit manufacturer has discontinued making and selling these products and no longer supports the product registration material such as Safety Data Sheets that EPA relies on to determine whether products should be listed for use on the National C-Plan Product Schedule.

Given this, we request that the lead agency on oil spill matters refuse to use the discontinued oil dispersants Corexit 9527A and Corexit 9500A in state waters as a matter of liability, effective immediately, and revoke state approval of preauthorization of these products *in federal waters adjacent to state waters*.

Second, to accomplish the first request, it is necessary for the state to engage in decision-making with its federal partners, the Regional Response Team co-chairs, EPA and the U.S. Coast Guard. It was abundantly clear during the 2010 BP Deepwater Horizon oil disaster that state lead agencies must participate actively in decisions regarding dispersant use in federal waters adjacent to the state waters. Despite use of nearly two million gallons of these Corexit dispersants in the deep sea and on the sea surface offshore for nearly three months, the oil-dispersant mixture from aerial and surface spraying in federal waters entered state waters and came ashore where encounters with workers and the public resulted in grievous and debilitating long-term harm.

All too often, states have deferred to their federal partners on the matter of offshore dispersant use. No more. The state, not the US Coast Guard or EPA, is responsible for public health of state residents and citizens. What happens offshore during oil spills can affect public

¹ ALERT and Government Accountability Project, 2024. Petition requesting EPA to remove Corexit 9527A and Corexit 9500A from the NCP Product Schedule pursuant to 40 CFR § 300.970. <https://alertproject.org/wp-content/uploads/2024/08/EPA-DELIST-petition-FINAL.pdf>

health onshore. **Given this, we request that** the state lead agency engage in decision-making with federal partners regarding dispersant use in *state waters and adjacent federal waters* as part of the ongoing, 2-year US Coast Guard-driven reorganization of Area C-Plans and Regional C-Plans.

Third, it is necessary to adopt a precautionary approach regarding dispersant use for several reasons. The current rules governing dispersant use allow for products that were listed on the National C-Plan Product Schedule when the rules went into effect on December 11, 2023, including these Corexit dispersants, to remain available for use until December 12, 2025, when a new Product Schedule will be published (40 CFR § 300.955). However, the post BP disaster science and human experience with respiratory and skin contact with Corexit dispersants consistently showed that oil-dispersant mixtures caused more harm to people and wildlife than oil alone.

For example, studies compiled in the Petition to EPA show 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**, affecting memory, emotions, behavior, and loss of tolerance to chemicals, sound, and light. Sadly, workers and Gulf Coast residents experienced the harm that studies found.

Given this, we request that the state lead agency adopt a precautionary approach regarding dispersant use in *state waters and adjacent federal waters*, as part of Area and Regional Contingency Plans, effective immediately and at least until the Product Schedule is updated with safer, less toxic products on December 12, 2025. The precautionary guidelines for product use, recommended in a 2024 report by The ALERT Project, are attached for your consideration.

ALERT's 2024 report and 2024 petition are incorporated by reference as support for our letter requesting the Alaska Department of Environmental Conservation Division of Spill Prevention and Response to advocate, develop, and implement precautionary guidelines for dispersant use *in state waters and adjacent federal waters* that, at a minimum, prohibit use of these Corexit dispersants, effective immediately.

Sincerely,

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Table 3. Precautionary guidelines for product use

Source: ALERT, 2024. An Opportunity to Make It Right. Relating to the Policy and Science of Oil Spills, Dispersant Use, and Human Health. <https://alertproject.org/wp-content/uploads/2024/02/ALERT240212-Opportunity-FINALrev.pdf>

Applies to:	No.	Guideline description
Any product	Restrictions on use	
	P-1	Product use must be considered on a case-by-case basis in cooperation with states and Tribes. If there is a conflict with other guidelines, e.g., P-4, the guideline with the most precautionary approach applies.
	P-2	Once a delisting process for a product is initiated under § 300.970, then that product must not be used until the outcome of the delisting process is settled, including any related lawsuits.
	P-3	Products must not be used if there is no written and approved plan for disposal of inventory should the product be delisted or not pass the new relisting requirements by Dec. 12, 2025.
Dispersants	Restrictions on use	
	P-4	No use of Corexit dispersants 9500 & 9527 , given the overwhelming evidence from animal and human studies that these dispersants can cause damage in multiple systems from the cellular to the organism level, including cancers of the lungs and blood.
	P-5	No use of dispersants in waters within territorial seas from the mean low-water mark seaward to 12 nautical miles (nm) and in water depths less than 400 ft (about 120 m).
	P-6	No use of dispersants in subsea waters or in waters colder than 5°C.
	P-7	No use of dispersants on offshore surface waters seaward of 12 nm.
	Accountability for use	
	P-8	Only consider a dispersant for use if supplemental testing data, monitoring data, and other information specified in the current standards are available, provided, <i>and address</i> area- and ecosystem-specific concerns relative to product use in waters of intended use.
	P-9	Any dispersant use must include environmental monitoring. If environmental monitoring finds such use increases the rate of sinking the spilled oil (fresh or weathered), product use must halt, pending consideration and consensus of local, state, and regional planners on next steps.
	P-10	Any dispersant use must include incident-specific, symptom-based health monitoring of on-site field workers and the exposed public.
	P-11	Any dispersant use must include chain-of-custody accounting with records of storage areas, staging areas, decontamination areas, and use.
	P-12	Manage oil spill wastes generated from offshore oil and gas exploration and production as non-exempt mixed hazardous wastes, especially if any dispersants are used, and in accordance with environmental justice principles.