

(2) *Limitations.* Herding agent listing would be for use only in freshwater and/or saltwater environments for which it was tested and for which it met the toxicity listing criteria.

(g) *Sorbent requirements.* Known sorbent materials and products will be identified on a publicly available Sorbent Product List for the use of such products when responding to an oil discharge as follows:

(1) For sorbent products that consist solely of the following materials, or any combination thereof, no technical data are required to be submitted for listing on the Sorbent Product List, and no further action is necessary for use as a sorbent:

(i) Feathers, cork, peat moss, and cellulose fibers such as bagasse, corncobs, and straw;

(ii) Volcanic ash, perlite, vermiculite, zeolite, and clay; and

(iii) Polypropylene, polyethylene, polyurethane, and polyester.

(2) If the product consists of one or more natural organic substances, inorganic/mineral compounds, and/or synthetic compounds not specifically identified in paragraph (g)(1) of this section but you believe the product meets the definition of a sorbent then, as applicable under §300.955(a) and (b), you must submit the following information for consideration for listing it as a sorbent on the Sorbent Product List:

(i) The information required under paragraphs (a)(1) through (a)(8), and paragraph (a)(13) through (a)(15) of this section;

(ii) The certification required under paragraph (a)(16) of this section; and

(iii) Information, including data, to support the claim your product meets the sorbent definition under §300.5.

§ 300.920 Addition of products to Schedule.

(a) *Dispersants.* (1) To add a dispersant to the NCP Product Schedule, submit the technical product data specified in §300.915(a) to the Emergency Response Division (5202-G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. A dispersant must attain an effectiveness value of 45 percent or greater in order to be added to the Schedule.

(2) EPA reserves the right to request further documentation of the manufacturers' test results. EPA also reserves the right to verify test results and consider the results of EPA's verification testing in determining whether the dispersant meets listing criteria. EPA will, within 60 days of receiving a complete application as specified in §300.915(a) of this part, notify the manufacturer of its decision to list the

product on the Schedule, or request additional information and/or a sample of the product in order to review and/or conduct validation sampling. If EPA requests additional information and/or a product sample, within 60 days of receiving such additional information or sample, EPA will then notify the manufacturer in writing of its decision to list or not list the product.

(3) Request for review of decision. (i) A manufacturer whose product was determined to be ineligible for listing on the NCP Product Schedule may request EPA's Administrator to review the determination. The request must be made in writing within 30 days of receiving notification of EPA's decision to not list the dispersant on the Schedule. The request shall contain a clear and concise statement with supporting facts and technical analysis demonstrating that EPA's decision was incorrect.

(ii) The Administrator or his designee may request additional information from the manufacturer, or from any other person, and may provide for a conference between EPA and the manufacturer, if appropriate. The Administrator or his designee shall render a decision within 60 days of receiving the request, or within 60 days of receiving requested additional information, if appropriate, and shall notify the manufacturer of his decision in writing.

(b) *Surface washing agents, surface collecting agents, bioremediation agents, and miscellaneous oil spill control agents.* (1) To add a surface washing agent, surface collecting agent, bioremediation agent, or miscellaneous oil spill control agent to the NCP Product Schedule, the technical product data specified in §300.915 must be submitted to the Emergency Response Division (5202-G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. If EPA determines that the required data were submitted, EPA will add the product to the Schedule.

(2) EPA will inform the submitter in writing, within 60 days of the receipt of technical product data, of its decision on adding the product to the Schedule.

(c) The submitter may assert that certain information in the technical

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product data submissions, including technical product data submissions for sorbents pursuant to §300.915(g)(3), is confidential business information. EPA will handle such claims pursuant to the provisions in 40 CFR part 2, subpart B. Such information must be submitted separately from non-confidential information, clearly identified, and clearly marked “Confidential Business Information.” If the submitter fails to make such a claim at the time of submittal, EPA may make the information available to the public without further notice.

(d) The submitter must notify EPA of any changes in the composition, formulation, or application of the dispersant, surface washing agent, surface collecting agent, bioremediation agent, or miscellaneous oil spill control agent. On the basis of this data, EPA may require retesting of the product if the change is likely to affect the effectiveness or toxicity of the product.

(e) The listing of a product on the NCP Product Schedule does not constitute approval of the product. To avoid possible misinterpretation or misrepresentation, any label, advertisement, or technical literature that refers to the placement of the product on the NCP Product Schedule must either reproduce in its entirety EPA’s written statement that it will add the product to the NCP Product Schedule under §300.920(a)(2) or (b)(2), or include the disclaimer shown below. If the disclaimer is used, it must be conspicuous and must be fully reproduced. Failure to comply with these restrictions or any other improper attempt to demonstrate the approval of the product by any NRT or other U.S. Government agency shall constitute grounds for removing the product from the NCP Product Schedule.

DISCLAIMER

[PRODUCT NAME] is on the U.S. Environmental Protection Agency’s NCP Product Schedule. This listing does NOT mean that EPA approves, recommends, licenses, certifies, or authorizes the use of [PRODUCT NAME] on an oil discharge. This listing means only that data have been submitted to EPA as required by subpart J of the National Contingency Plan, §300.915.

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EFFECTIVE DATE NOTE: At 88 FR 38336, June 12, 2023, §300.920 was removed, effective Dec. 11, 2023.

§ 300.950 Submission of Proprietary Business Information (PBI).

(a) Except as provided in paragraph (b) of this section, all product information submitted to EPA as required under §300.915 and §300.955 will be available for public disclosure upon submission, without further notice to the submitter.

(b) You may only claim as PBI the concentration; the maximum, minimum, and average weight percent; and the units of each component as identified in §300.915(a)(13) and (14) and as applicable. EPA will handle such claims in accordance with 40 CFR part 2, subpart B Confidentiality of Business Information.

(1) You must make your PBI claim at the time you submit your information to EPA to be listed on the NCP Product Schedule or Sorbent Product List.

(2) You must separate the PBI from all other submitted information. Include all PBI separately with your submission package, marking it as “Proprietary Business Information” and placing it in a separate inner envelope labeled with “PROPRIETARY BUSINESS INFORMATION—TO BE OPENED BY THE PRODUCT SCHEDULE MANAGER ONLY.”

EFFECTIVE DATE NOTE: At 88 FR 38336, June 12, 2023, §300.950 was added, effective Dec. 11, 2023.

§ 300.955 Addition of a product to the NCP Product Schedule or Sorbent Product List.

(a) *Submission.* Submit your complete package to: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Mail Code: 5104A, Room 1448, William J. Clinton North, Washington, DC 20460, Attention: Product Schedule Manager.

(b) *Package contents.* Your package shall include, as applicable, in this order:

(1) A cover letter on company letterhead signed and dated by you certifying that:

(i) All testing was conducted on representative product samples;