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EOSCA Position Statement on Reclassification of Chemical Substances by Users

EOSCA is aware that some offshore operators have indicated their intention to reclassify certain hazardous substances more severely than the existing EU harmonised classification, as part of their own internal health and safety programs. Requests have been made to chemical suppliers to provide amended safety data sheets (SDS) reflecting the user's self-classification. While individual users are entitled to re-classify substances, EOSCA will not support the ad-hoc reclassification of chemical substances by end-users. Where additional data is available that would result in a change to the EU CLP classification, this information should be passed to the European Chemicals Agency (ECHA) in the proper manner for review of the existing CLP harmonized classification.

As manufacturers, importers, or suppliers of chemical substances and mixtures within the European Community, EOSCA member companies are legally bound to follow procedures for hazard classification and labelling of chemical substances as are clearly set out in the current EU legislature. The EU Regulations on Classification, Labelling, & Packaging (CLP; EC No. 1272/2008) and REACH (EC No. 1907/2006) place the responsibility for hazard classification, and related provisions such as packaging, hazard communication and SDS on the manufacturers and suppliers of substances and mixtures.

For substances of particular concern (CMRs and respiratory sensitisers), or for other substances where Community-wide action is needed, CLP sets out a system for formal harmonisation of classifications at Community level. Substances regulated under Directive 98/8/EC (Biocidal Products Directive; BPD) will also normally be subject to harmonised classification and labelling for all hazardous properties. CLP Annex VI contains a list of all substances for which there is a harmonised EU classification. The use of a harmonised classification and labelling of a substance is mandatory, and must be applied by all manufacturers, importers, or suppliers of the same substance. The EU harmonised classification is a minimum requirement.

CLP also includes provision for "self-classification" of a substance or mixture by the manufacturer, importer, or supplier in cases where there is no EU harmonised classification. Self-classification involves identification of hazards, followed by classification as a result of the comparison of the hazard information with the criteria in CLP. This enables industry to self-classify chemicals, and to provide appropriate hazard communication information to downstream users.

EUROPEAN OILFIELD SPECIALITY CHEMICALS ASSOCIATION

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Downstream Users may classify CLP Annex VI substances more severely, but not less severely, if they believe they have information which justifies this. This is a change from the now superseded Dangerous Substances Directive (67/548/EEC), where a mandatory classification could not be modified. Downstream Users may also modify self-classified substances if they are in possession of new scientific or technical information that justifies the adoption of a more severe classification. However, there are established procedures that should be followed if there is a perceived requirement to change the existing classification of a chemical substance. These procedures are described in CLP Article 37 and in REACH Articles 31, 32 and 34.

It is EOSCA's position in the matter of reclassification of chemical substances and mixtures, whether this refers to a harmonised or self-classification, that an end-user in possession of any new scientific or technical information on a substance that could justify a more severe hazard classification and labelling, should communicate this information without delay via the established regulatory procedures. If a reclassification is justified, this will then be implemented in a manner that will enable suppliers to continue to provide downstream users and customers with products accompanied by an EU-compliant SDS, exposure scenarios enabling safe use of the substance or mixture, and appropriate labelling and packaging according to classification, as specified by REACH and CLP.

EOSCA will not support ad-hoc reclassification of substances and mixtures by individual end-users that will result in disharmonisation, at a time when EU legislation is being implemented with the intention of harmonising classification, labelling and packaging of substances, and ensuring safe use of chemical substances and mixtures by all users.

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Any comments on this should be directed to the Executive Secretary at the above address.

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