

US Pollution – NRC and MSRC – MSRC Addendum Concerning Use of Dispersants

Tank vessel owners

Members will be aware that United States Coast Guard regulations now require vessel response plans for tank vessels to include an oil spill response organisation (“OSRO”) capable of applying dispersants by air as part of a clean up operation. Pending finalisation of the implementation of these regulations both main OSROs – National Response Corporation (NRC) and Marine Spill Response Corporation (MSRC) – received permission to have their customers’ plans continue without a dispersant capability until 21 August 2011. This period has now been extended to 30 September 2011 for those whom the USCG has asked to make corrections to their plans filed by the deadline. From this date operators of tank vessels must cite an OSRO with dispersant capability in their plans.

Both MSRC and NRC confirm that they now have dispersant capability in all areas of the United States (US) with the exception of Hawaii where it will be necessary to cite Clean Islands Council in addition to either NRC or MSRC.

On 10 August 2011, MSRC notified its customers of an amendment to its service agreement to include a “dispersant addendum”. This addendum introduced liabilities on the vessel owner which fell outside the scope of club cover. After discussion with the International Group, MSRC has narrowed the scope of the addendum to only apply when there is an event involving dispersants. On 22 August 2011, MSRC sent a message to its customers requiring them to sign and return the revised Addendum by 9 September. Unfortunately the additional liabilities introduced still mean that the MSRC service agreement no longer conforms with International Group US vessel response plan guidelines (US VRP guidelines) because the liabilities are not reciprocal and the contract requires the owner to waive the right to limit in certain circumstances. (For the guidelines see circular No. 02/2009 – June 2009.) Additional cover has been arranged in the market. Those owners or operators wishing to sign the MSRC Addendum (*version 22 August 2011*) are advised to contact the Club for details.

NRC has confirmed that they have not introduced any amendments or addenda to its contract at this time.

All tank members should note that whether they have cited NRC or MSRC in their plans, if calling at Hawaii it will be necessary to cite Clean Islands Council in the plan as well. The Clean Islands Council contract does not conform with the US VRP guidelines and in order to ensure full P&I coverage it will be necessary to purchase additional insurance details of which can be obtained through the Club.

Non tank vessel owners

As regards non-tank vessels provided MSRC has not been cited in the non tank vessel response plan as providing dispersant services (and there are no current Federal or State requirements to include such a capability at the present time) it is not necessary for the operators of such non tank vessels to sign the MSRC Dispersant Addendum in advance. They will be required to do so in the event of a spill where the use of dispersants is contemplated.

However, if a non tank owner has cited dispersant services in his plan and MSRC as the provider of those services, then the non tank owner will be required to agree to the terms of the MSRC Addendum and additional cover will be required.

Operators of non tank vessels are advised to check that their Vessel Response Plans do not cite dispersant services or to consult the Vessel Response Plan writers. If they do wish to cite MSRC as the provider of such services in their plans, as mentioned above additional cover will be needed, details of which can be obtained from the Club.

Any questions with regard to the above may be addressed to Sara Burgess in Gard (UK) Limited (Tel +44 20 7444 7200), Frank J. Gonynor and John C. Scalia in Gard (North America) Inc (Tel +1 212 425 5750) and Arne Sætra in Gard AS (Tel +47 37 01 91 00).

Yours faithfully,

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