



# Circular

Ref: 19/13

DECEMBER 2013

## OUTLINE

- This circular refers to Circular 18/13 United States Vessel Response Plans
- Copies of the appropriate MSRC and NRC contracts are attached as PDFs to the website version of this circular
- US Coast Guard has issued a set of FAQs on Non Tank Vessel Response Plans (NTVRP).

## TO THE MEMBERS

Dear Sirs

### UNITED STATES VESSELS RESPONSE PLANS - OSRO CONTRACTS

Reference is made to Circular 18/13 United States Vessel Response Plans of November 2013 and to the requirement that non-tank shipowners trading to the United States of America (US) should have in place federal Vessel Response Plans by 30 January 2014.

In that circular non tank owners were advised that the International Group (IG) Clubs would not be continuing the retainer agreements with MSRC and NRC (which were originally introduced to mitigate the costs of response in the US for nontank vessels, and to facilitate compliance with California state law contingency plan requirements) and that in future, therefore, non-tank vessel owners would need to contract with either MSRC or NRC directly. However, in order to effect a smooth transition the retainers with MSRC and NRC respectively stay in place until 30th January 2014.

#### OSRO services

The MSRC and NRC contracts which conform with the IG Vessel Response Guidelines are as follows:

- MSRC: Footer dated September 27, 1996
- NRC: Header dated September 15, 2004

#### Dispersant services

NRC - With regard to dispersants NRC have introduced an Addendum entitled DISPERSANT AMENDMENT RELEASE with footer DISPERSANT AMENDMENT RELEASE – December 2013. This conforms with International Group guidelines.

MSRC - With regard to MSRC – in August 2011 they introduced the following clause in conjunction with a Dispersants Addendum:

**2.01(e) – Discharges Involving Dispersant Services.** MSRC may offer from time to time to provide aircraft, vessels or other services or Resources in connection with the supply or application of dispersants for Spill Events (“Dispersant Services”). *Any additional or different terms and conditions applicable to the provision of Dispersant Services for such Spill Events will be set forth in an addendum to this Agreement executed by MSRC and the Company in advance or at the time of callout for the Spill Event. Dated: August 10, 2011.*

Members should note that the effect of this clause is that before providing dispersant services, MSRC reserves the right to require the owner to sign an Addendum on unspecified terms. As a result of this uncertainty this clause does not conform with IGVRP guidelines since by agreeing to it the member accepts that before dispersants are provided he/she may have to enter into an agreement with MSRC which exposes the member to liabilities falling outside the scope of Club cover.

However, MSRC have agreed that no Dispersant Addendum will be required from shipowners, and has agreed that neither the Addendum nor Section 2.01 (e) will be included in the package sent to shipowners so that shipowners will not need to agree to this section when signing a contract with MSRC and thus will only be required to contract on terms which conform with club cover. Moreover, in order to provide evidence that MSRC will offer dispersant services, MSRC should include additional documentation confirming to the customer that it will provide these services notwithstanding the absence of Section 2.01(e). The additional documentation should also include confirmation that any Dispersant Addenda previously entered into between MSRC and a vessel owner/operator has been terminated.

### **Frequently asked questions (FAQs)**

The US Coast Guard have now published their Frequently Asked Questions (FAQs) on the non-tank final rule and these are attached. They can also be accessed via the US Coast Guard's 'Homeport' website (<https://homeport.uscg.mil>) via the following menu items: Missions > Environmental > Vessel Response Plan Program > Nontank Vessel Response Plans > Important NTVRP Documents: "NTVRP Frequently Asked Questions

Yours faithfully

### **THE MANAGERS**

#### **CONTACT**

Members requiring further information should contact Dr. Chao Wu ([chao.wu@thomasmiller.com](mailto:chao.wu@thomasmiller.com) or telephone +44 20 7204 2157).