



Circular

Ref: 13/12

OCTOBER 2012

- As advised in Club Circular 10/11, MSRC Dispersant Addendum (MSRC Addendum) does not comply with the IG VRP guidelines.
- NRC has now introduced a similar addendum to its contract (NRC Amendment) which does not comply with the IG VRP guidelines, however NRC has also proposed an "opt-out" solution.
- Members signing MSRC Addendum or NRC Amendment may incur liability by indemnity which falls outside the scope of the Club's standard P&I cover.
- IG guidelines on VRP service agreements were published in Club Circular 6/09

TO THE MEMBERS

Dear Sirs

US POLLUTION: NRC AND MSRC – ADDENDA CONCERNING USE OF DISPERSANTS TO CONTRACTS FOR TANK VESSELS

Members will recall that, as from 22 February 2011, tank vessel operators were required to include a capability for the aerial application of dispersants in their vessel response plans (VRPs).

Both of the main oil spill removal organisations (OSROs), Marine Spill Response Corporation (MSRC) and National Response Corporation (NRC), confirmed that they had such capability. However as advised in Circular 10/11, MSRC required that its customers sign an addendum (MSRC Addendum) to their standard service agreement before including MSRC dispersant capability in their VRP. The MSRC Addendum has the footer "(version 22 August 2011.)"

NRC are now introducing a similar addendum (NRC Addendum) to their existing contract: "Agreement for provision of Response Services," bearing the footer: "(Version September 15, 2004)." The NRC Addendum is entitled "Alternative Technologies Amendment to Agreement for Provision of Response Resources (Tank Vessels)" and has footer "September 27, 2012." It will come into effect on 1 January 2013.

Certain terms of both the MSRC Addendum and the NRC Addendum do not conform with the International Group (IG) guidelines on VRPs. Therefore, agreeing to the terms of either addenda could result in Members incurring liabilities which fall outside the scope of club cover. Members wishing to obtain additional cover from the market for such liabilities can contact the Managers for details (as previously advised in relation to the MSRC Addendum). However, it should be noted that this additional insurance provides a limited level of cover.

For NRC clients, there is also the alternative of not signing the NRC Addendum, but instead paying an additional annual charge of USD 250 per vessel. This option would not prejudice club cover and would avoid the need for additional insurance. The full limits of club cover would remain in place.

All tank vessel Members are reminded that, whether they have cited NRC or MSRC in their plans, if calling at Hawaiian ports it will be necessary to cite Clean Islands Council in the VRP as well. The Clean Islands Council contract does not conform with the IG VRP guidelines. Therefore, signing their contract could result in Members incurring liabilities which fall outside the scope of club cover. Members wishing to obtain additional cover from the market for such liabilities can contact the Managers for details.

At the present time non-tank vessels are not required to include a capability for the aerial application of dispersants in their VRPs.

Vessel Response Plans – General Conformity with International Group Guidelines

Members are reminded that, as set out in Circular 6/09, certain contracts for pollution response services do not conform with the IG guidelines for vessel response plan contracts. Use of such contracts – which in certain geographical areas may be unavoidable for want of alternative resources – may consequently expose Members to liabilities that fall outside Club cover. A list of conforming contracts is available from the Managers.

Clubs are able to arrange some limited cover for Members for these liabilities. Members are reminded that this cover operates on an individual declaration basis, such that Members must declare each call to ports where use of a contractor with a non-conforming contract is contemplated. In case of doubt, Members should contact their Club for advice.

Members should contact the Managers should they have any queries regarding any of the above.

All Clubs in the International Group have issued a similar circular

Yours faithfully

THOMAS MILLER (BERMUDA) LTD.

CONTACT

- Members requiring further information should contact their usual underwriting contact