



## CLIENT ADVISORY LETTER 2011-01

February 12, 2011

### New Dispersant and Aerial Tracking Regulation Effective February 22, 2011

Dear Client,

We write to update you on the requirements under 33 CFR Parts 154 and 155 for Facility and Vessel Response Plans for oil removal equipment requirements and Alternative Technology Revisions (Dispersants) that are due to go into effect on February 22, 2011. While there has been no change in that compliance date, we write to advise you on new information from the USCG.

As a reminder, this Final Rule pertains to dispersant capabilities for both Tank Vessel (TVRP) and Marine Transportation-Related (MTR) Facility plan holders. The USCG now requires that Tank Vessels and MTR response plan holders identify and contract with an Oil Spill Removal Organization (OSRO) for dispersant services in Captain of the Port (COTP) zones where dispersant use is pre-authorized. In addition, TVRP and MTR plan holders are required to identify aerial tracking resources in each COTP zone in their plans. (Facilities operating exclusively on inland rivers are not impacted by this rule.)

National Response Corporation (NRC) has either purchased or contracted for the resources required to meet these new regulations such that NRC's clients will be in compliance as of the implementation date. The following is a listing of NRC dispersant response resources:

- Dispersant stockpiles distributed strategically within the US including the Caribbean
- Aerial dispersant aircraft and spotter/observer aircraft
- Pilots and observation personnel to support oil spill removal operations
- Aerial tracking assets
- Boat spray dispersant systems

NRC has been working closely with the USCG over several months to ensure our program met the new requirements. On February 10, 2011 we met at USCG Headquarters expecting to finalize our OSRO dispersant classification status. However, because the USCG has not yet completed the review process and due to differing interpretations of the new requirements, the USCG has decided to issue **Interim Operating Authorization (IOA)** letters to vessel plan holders (tank vessels and tank barges) so that VRP plan holders can continue operations and prevent any disruption to national commerce while the USCG completes their review process. For this process to proceed, we have agreed to submit Alternative Planning Criteria (APC) on behalf of our clients to satisfy both the dispersant and aerial tracking capabilities of the regulation. This procedure will eliminate the need for plan holders to submit individual APCs. The USCG has stated that the interim operating authorization will be in effect through August 21, 2011 while OSROs work with the USCG to clarify the new regulatory requirements.

The USCG has begun issuing IOA letters to vessel plan holders. MTR facilities subject to these new regulations can request IOA letters from their COTP Sector office if needed.



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Also, On February 10, 2011, the USCG issued guidance to MTR plan holders advising them they are NOT required to submit plan revisions to meet the aerial tracking requirements in 33 CFR 154.1045(j) until the term "inland rivers" has been defined. Because of confusion over this term, the USCG has said facilities are not required to pursue changes to their response plans until the regulation has been clarified. We expect similar announcements for tank vessel and tank barge plan holders for aerial tracking requirements under 33 CFR Part 155.1035 (i)(11) and 33 CFR Part 1154.1040 (j)(11).

As soon as the OSRO Dispersant Classification program is finalized by the USCG, we expect NRC to receive a full classification such that our clients will be able to identify NRC as your OSRO dispersant provider and there will be no need to cite specific resources to be in compliance with the regulation.

We will continue to monitor the implementation of the dispersant regulation and will update you as we work with the USCG to finalize the regulatory interpretations and our OSRO dispersant classification.

Should you have any questions, I can be reached at 631 224-9141.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Candito". The signature is fluid and cursive, with the first name being the most prominent.

Steven A. Candito  
President