



# REGIONAL RESPONSE TEAM IV

United States  
Coast Guard

Environmental  
Protection Agency

Department of  
Agriculture

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Commerce

Department of  
Defense

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Department of  
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Federal Emergency  
Management Agency

General Services  
Administration

Nuclear Regulatory  
Commission

Tennessee Valley  
Authority

State of  
Alabama

State of  
Florida

State of  
Georgia

Commonwealth of  
Kentucky

State of  
Mississippi

State of  
North Carolina

State of  
South Carolina

State of  
Tennessee

June 15, 2009

Mr. David Bernhart  
Assistant Regional Administrator  
Protected Resources Division  
National Marine Fisheries Service  
Southeast Regional Office  
263 13th Avenue South  
St. Petersburg, Florida 33701

Dear Mr. Bernhart:

Reference is made to the Region IV Regional Response Team (RRT IV) policy for dispersant use in ocean and coastal waters in response to offshore oil spills. The policy preauthorizes use of dispersants by the pre-designated US Coast Guard On-Scene Coordinator on oil discharges impacting federal waters within Federal Region IV jurisdiction. In general, preauthorization is granted three miles seaward of land providing waters are at least ten meters deep. The policy implements Subpart J of the National Contingency Plan and is signed by the US Coast Guard, the Environmental Protection Agency, and the Department of the Interior, the Department of Commerce, and the coastal states of RRT IV (Mississippi, Alabama, Florida, Georgia, South Carolina, and North Carolina).

In your letter dated March 13, 1996, you concurred that the dispersant policy is unlikely to adversely affect endangered or threatened species under National Marine Fisheries Service purview or their critical habitat. In that letter you made special stipulations related to designated critical habitat and to listed species of sea turtles and whales. Those stipulations were incorporated into the policy.

The Section 7 consultation with National Marine Fisheries Service did not include *Pristis pectinata*, *Acropora palmate*, *Acropora cervicornis*, and *Halophila johnsonii*. We believe that these species should be included in the Section 7 consultation for the policy for use of dispersants in coastal and ocean waters.

Revisions have been proposed to the RRT IV policy for dispersant use in ocean and coastal waters in response to offshore oil spills. In general preauthorization is 3 miles seaward of any land providing that the water is at least 10 meters deep. Some special management areas are however, excluded from preauthorization. Three zones have been established to delineate locations and conditions under which dispersant application operations may take place in waters of federal Region IV. The Green Zone (preauthorization), Yellow Zone (case-by-case approval), and the Red or Exclusion Zone (areas excluded from use of dispersants; no areas are presently designated).

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The Yellow zone is defined as any waters within federal Region IV which have not been designated as a "Red" zone, and in which ANY of the following conditions apply:

a) The waters fall under State, or special federal management jurisdiction. This includes any waters designated as National Marine Sanctuaries, National or State Wildlife Refuges, units of the National Park Service, proposed or designated Critical Habitats, Habitat Areas of Particular Concern, or Marine Protection Areas (MPA).

b) The waters are within three miles of a shoreline, and/or falling under state jurisdiction.

c) The waters are less than 10 meters in depth.

d) The waters are in mangrove or coastal wetland ecosystems, or directly over living coral communities, which are in less than 10 meters of water. Coastal wetlands include submerged algal beds and submerged seagrass beds.

If the USCG OSC believes dispersants should be applied within the Yellow zone, a request for authorization must be made to the RRT IV representatives of the EPA, DOI, DOC, and the affected State(s). The OSC is only granted authority to conduct dispersant operations in the Yellow zone when concurrence has been given by EPA and the affected State(s), and after consultation with DOC and DOI.

Application of dispersants within the Yellow zone, if approval is granted, will be conducted in accordance with the appropriate and relevant protocols outlined in the Protocols Section. Additionally, the USCG OSC will make every reasonable effort to continuously evaluate the application of dispersants within the Yellow zone, and will allow RRT IV agencies and the affected State(s) the opportunity to comment.

The Protocols Section require adherence to those stipulations specified in your concurrence letter dated March 13, 1996. Also specified is compliance with the Section 7 emergency consultation procedures as outlined in the *Interagency MOA Regarding Oil Spill Planning and Response Activities under the NCP and the Endangered Species Act*. And the Protocols Section requires consultation for emergency actions that may adversely affect essential fish habitat.

To support our evaluation and to avoid having to initiate a new Section 7 consultation for the policy on use of dispersants, we request NMFS to include *Pristis pectinata*, *Acropora palmate*, *Acropora cervicornis*, and *Halophila johnsonii* in our Section 7 consultation for this project.

We believe the conditions as outlined above and to be implemented during the operation of dispersant use as a requirement of the preauthorization policy will effectively prevent and minimize any potential effects to the above listed species.

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Based on the above, we have determined that the proposed project may affect, but is not likely to adversely affect the above referenced federally listed threatened species. We request concurrence from the National Marine Fisheries Service - Protected Resources Division with the above determination, as part of the previous Section 7 consultation for the policy for dispersant use in ocean and coastal waters in response to offshore oil spills.

Captain Drew Pearson  
Co-Chair  
U.S. Coast Guard  
Regional Response Team IV

Shane Hitchcock  
Co-Chair  
U.S. Environmental Protection Agency  
Regional Response Team IV

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