

## MEMORANDUM TO CLIENTS

### ENVIRONMENTAL

*December 28, 2015*

### CONAMA regulates the use of chemical dispersants to combat oil spills in deep waters

On December 09, 2015, the National Environmental Council ("CONAMA") published Resolution No. 472/2015 ("New Resolution"), stipulating the use of chemical dispersants to combat oil spills in deep waters. The New Resolution revoked CONAMA Resolution No. 269/2000 ("Revoked Resolution").

The New Resolution requires that chemical dispersants be registered with the Brazilian Institute of Environment and Renewable Natural Resources ("IBAMA") before being manufactured, imported, sold or used in response actions to clean up oil spills in deep waters. A Normative Instruction to regulate the procedures and requirements to register such products will be enacted at a later date.

The Revoked Resolution established general terms concerning chemical dispersants and included an attachment, which contained general guidelines that might influence the decision to use the product, methods of application, monitoring and communication with relevant authorities, environmental assessment, classification of areas involved and restrictions on its use. The New Resolution contemplates rules involving the product and its attachment contains 2 forms: one to be used for communication with relevant authorities and another called "exceptional use of chemical dispersants", which includes guidelines to be observed before deciding to use the product.

The New Resolution lists situations in which the use of chemical dispersants is permitted. Amongst the situations stipulated in the New Resolution, we highlight those in which the oil spill is moving or can move to environmentally sensitive areas, when there is a continuous leak or the volume of the spill is significant and when underwater application is required to facilitate procedures to stop a leak of an oil well in disarray.

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The purpose of this memorandum is to inform our clients about important changes and developments in the area of law. We remain at the reader's disposal for any additional information that may be desired regarding the subject matter herein.

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In addition, the application of chemical dispersants is only permitted when the use of other techniques to gather and diffuse the spill are ineffective, inapplicable or inadequate. Uninterrupted application of chemical dispersants can only be carried out if there is a continuous source of reintroduction of the oil.

The New Resolution requires anyone that intends to use chemical dispersants to inform IBAMA. The environmental agency with jurisdiction over the shoreline which may be impacted by the oil may spill must also be informed. Environmental monitoring must follow the use of chemical dispersants.

In some areas the use of chemical dispersants is restricted, such as: (i) areas at distances of less than 2,000 meters from the coast, including islands; (ii) areas with depths of less than 20 meters; (iii) areas that are less than 2,000m away from marine protected areas; and (iv) areas that are less than 2,000m away from coral reefs, seaweed banks or shoals exposed by the tide.

In other areas the use of chemical dispersants is prohibited, including the reef complex of Abrolhos, the area of Manuel Luis Parcel located in the Marine State Park, the area of Montes Submarinos with depths of less than 500m. Furthermore, the use of chemical dispersants is not permitted in order to restore the aesthetic quality of a body of water or to clean any type of vessel.

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