

No. 29 2013/2014 - US Vessel Response Plans - Non-Tank Final Rule - Update

January 2014

Dear Sirs,

US Vessel Response Plans – Non-Tank Final Rule – Update

- **NTVRP Implementation Date – 30 January 2014**
- **Deactivation of Old Non-Tank Vessel Response Plans on 31 January 2014**
- **Alaska – Alternative Planning Criteria (non-tank vessels)**
- **Pacific Region – Alternative Planning Criteria (tank and non-tank vessels)**

We refer to Notices to Members No. 23 2013/2104 and No. 25 2013/2104.

NTVRP Implementation Date - 30 January 2014

Members are reminded that the US Non-Tank Vessel Response Plan (NTVRP) Final Rule will come into force on 30 January 2014. Despite an approach by the International Group, amongst others, requesting an extension to the deadline, the US Coast Guard (USCG) has stated that there will be no extension of the deadline. Thus, by 30 January shipowners must have filed a vessel response plan under this Rule and either have received approval of the plan or have filed a plan containing sufficient elements to obtain an Interim Operating Authorisation (see Notice to Members No. 25 2013/2104).

The NTVRP was published on 30 September 2013 and requires compliance within four months. Non-tank owners are required for the first time to enter into salvage funding and firefighting agreements which involve detailed contractual arrangements. The Coast Guard recognising that time may be limited for plan holders and preparers to complete all elements of their NTVRPs has said that it will issue 6-month Interim Operating Authorization (IOA) letters, as necessary.

In order to meet the requirements to receive an IOA letter, vessels must submit a plan containing the minimum following information to COMDT (CG-CVC) at the following address - Inspections and Compliance Directorate Contact: VRP Program - 2703 Martin Luther King Jr Ave SE STOP 7501 Washington, DC 20593-750. Phone: (202) 372-1226. E-Mail: vrp@uscg.mil

- (1) identification of a qualified individual (QI) and alternate QI;
- (2) identification of an OSRO by contract or written consent as appropriate;
- (3) identification of a salvage and marine firefighting provider and submission of a salvage contract and funding agreement or written consent agreement as appropriate;

and

- (4) signed certification statement as required by 33 CFR 155.5023(b).

If the plan is not fully compliant with other Sub-part J requirements, i.e. pre-fire plan or vessel specific information is lacking, the certification statement should identify those plan elements that are incomplete.

(For Sub-part J see: <https://www.federalregister.gov/articles/2013/09/30/2013-22059/nontank-vessel-response-plans-and-other-response-plan-requirements#h-46>)

Marine Safety Information Bulletin (MSIB) 42-13, issued on 19 December 2013, identifies the minimum NTVRP requirements necessary for issuance of new six-month IOAs. These can be viewed by using this link <http://homeport.uscg.mil> and using the following path to find MSIB 42-13:

Missions > Environmental > Vessel Response Plan Program > Non-Tank Vessel Response Plans > Important NTVRP Documents.

Deactivation of Old Non-Tank Vessel Response Plans on 31 January 2014

On 14 January 2014 the USCG published a notice concerning the deactivation on 31 January 2014 of old non-tank vessel response plans which were created under the interim provisions of NVIC 01-05 CH-1. This is regardless of their expiration dates.

The regulations of 33 CFR 155 Sub-part J, Non-Tank Vessel Response Plans (NTVRPs), supersede the interim NTVRP guidance of Navigation and Inspection Circular (NVIC) 01-05 CH-1.

Therefore, on 31 January 2014, the USCG Vessel Response Plan Program will deactivate all non-tank vessel response plans created under the interim provisions of NVIC 01-05 CH-1, regardless of expiration dates, some of which may extend until 2015. The only non-tank vessel response plans that will remain active will be those that have been updated, reviewed, and either found to be in full compliance with Sub-part J and approved for five years, or issued a new six-month interim operating authorization (IOA) to allow time to review and address any identified deficiencies. New Sub-part J compliant approval letters and IOAs will specifically mention compliance with "Title 33, Code of Federal Regulations, Part 155, Sub-part J."

Conforming OSRO contracts and Funding Agreements

Since publishing Notice to Members No. 19 2013/2104 some of the salvors have changed their agreements and rates. A complete list of the conforming contracts is:

Donjon-Smit – (Tanker and Non-Tank) Version A – October 4, 2013
Donjon-Smit – Consent Agreement for Vessel Response Plans – October 4, 2013

Marine Response Alliance LLC – Version 16 October 2013
Marine Response Alliance LLC – MRA OPA 90 & CA Certificate of Coverage 01 October 2013
Marine Response Alliance LLC – Version 17 January 2014

Resolve Salvage & Fire (Americas) Inc – Version 3 – 1 October 2013
Resolve Salvage & Fire (Americas) Inc – RMG OPA 90 Certificate of Coverage 01 October 2013

Svitzer – USA Companies Version October 1, 2013
Svitzer – INTL Companies Version October 1, 2013
Svitzer Written Consent – Version Oct 2013

T&T Salvage LLC – USA Owner (Tanker and Non-Tank) Version – 4 October 2013
T&T Salvage LLC - Non-US Owner (Tanker and Non-Tank) Version – 4 October 2013
T&T Salvage LLC – OPA 90 Written Consent – 4 October 2013

However no guarantee can be given that the rates referred to are the latest.

The footers for conforming versions of the two main Oil Spill Response Organisation (OSRO) contracts, Marine Spill Response Corporation [MSRC] and National Response Corporation (NRC) are:

MSRC – September 27, 1996

NRC – September 15, 2004

MARSALV

US Open Form Salvage Agreement (MARSALV) is a variation of LOF and principally used by US salvors engaged in salvage services on behalf of US-based shipowners. This form, however, has been incorporated into a number of the OPA '90 SMFF Funding Agreements reviewed by the International Group. MARSALV is not a salvage form approved by the Club and therefore any claim relating to a liability to pay special compensation under the terms of MARSALV may not be covered. This form was referred to in certain contracts for Resolve and MRA. It has now been removed from the current forms pending further discussion with the International Group.

Alaska – Alternative Planning Criteria for Non-Tank Vessels

We refer to Notice to Members No. 25 2013/2104. The Alternative Planning Criteria for non-tank vessels for Western Alaska can be viewed by clicking on the link "www.ak-mpn.org". Non-tank vessels in transit through Western Alaska waters coming either from a US port or going to a US port are required to follow Alternative Planning Criteria in order to fulfil federal requirements. At present the only option available is to enrol with Alaska Maritime Prevention and Response Network. However, the terms of the enrolment agreement do not conform with International Group guidelines on Vessel Response Plans. At the request of the International Group, various changes have been made to the enrolment agreement and it is hoped that resolution of outstanding items will be reached shortly. The International Group remains in contact with the Alaskan Maritime Prevention and Response Network.

One of the conditions of enrolling with the Network is that the shipowner gives prior authorisation to his QI to sign a contract with Alaska Chadux in the case of a spill. Members are reminded that the terms of the Alaska Chadux agreement do not conform with International Group guidelines. In the meantime Members wishing to enrol are advised to contact their Club for updates.

Alternative Planning Criteria for the Pacific Region (D14 Remote Zone)

On 12 January the USCG published some guidance on Alternative Planning Criteria (APC) for D14 Remote Zone. This region encompasses American Samoa, Guam and the Northern Marianas. Various interim measures will be put in place and Members are advised to contact the USCG or their plan writers for further details. Various OSROs are listed in the APC. The contractual requirements are as follows:

American Samoa

Tank & gas vessels - all other vessels greater than or equal to 400 gross tons (non-tank vessels):

OSRO: Local: Solar or Green Ops & National: NRC or MSRC

A salvor contract and funding agreement as appropriate.

The International Group has reviewed a contract with Solar and whilst there are certain small issues with the contract which the International Group will discuss with Solar, there are no major issues with the contract.

As yet the International Group has not sighted a contract with Green Ops. Once a copy is obtained, this will be reviewed and comments circulated to Members.

Guam & CNMI (Commonwealth of the Northern Mariana Islands)

All tank vessels & non-tank vessels with fuel or cargo capacity 2,500 bbls or more:

OSRO: Guam Response Services Limited [GRSL] or Oil Spill Response Operations Company LLC [OSROCO] - no contracts with MSRC or NRC are required.

A salvor contract and funding agreement as appropriate.

The International Group has reviewed contracts with GRSL and OSROCO. The contracts with OSROCO conform with International Group guidelines. The contracts have the following footers:

OSRO Designation Agreement - 20 January 2014

OSRO Emergency Response Services Agreement, Non-Tank Vessels – 20 January 2014.

The contract with GRSL does not conform. Shipowners contracting with GRSL may expose themselves to risks falling outside the scope of Club cover for which additional insurance will be needed.

Please note that APC requests for non-tank vessels with a fuel or cargo oil capacity of less than 2,500 bbls will not be accepted, since they are required to meet the Final Rule requirements by 30 January 2014 (see 33 CFR 155.5050).

Members requiring further advice or assistance are advised to contact the Managers.

Yours faithfully

For: **West of England Insurance Services (Luxembourg) S.A.**
(As Managers)

A Paulson
Director