

24 January 2014



TO ALL MEMBERS

**The Britannia Steam Ship
Insurance Association Limited**

Managers

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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**
- **Conforming SMFF contracts and funding agreements**
- **Alaska – Alternative Planning Criteria (non-tank vessels)**
- **Pacific Region – Alternative Planning Criteria (tank and non-tank vessels)**

This circular provides an update on various issues relating to the Non-Tank Vessel Response Plan (NTVRP) Final Rule. Copies of recent publications and relevant documents are now published on the Club's website.

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 (IG), amongst others, requesting an extension to the deadline, the US Coast Guard (USCG) has stated that there will be no extension of the deadline. Therefore, 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 Interim Operating Authorisation. Members are referred to our earlier circulars on these issues for further details (see above link).

The NTVRP Final Rule was published on 30 September 2013 and required compliance within four months. Non-tank vessel owners are for the first time required to enter into salvage and marine firefighting funding agreements, which involve detailed contractual arrangements. The USCG has recognised that time may be limited for plan holders and preparers to complete all elements of their NTVRPs and, therefore, the USCG 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 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.

The plan must contain the following information (as a minimum):

- (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. if 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>)

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 the 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 NTVRPs which were created under the interim provisions of Navigation and Inspection Circular (NVIC) 01-05 CH-1. This is regardless of their expiration dates.

The regulations of 33 CFR 155 sub-part J (see above link) 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 NTVRPs created under the interim provisions of Navigation and Inspection Circular (NVIC) 01-05 CH-1, regardless of expiration dates, some of which may otherwise have run until 2015. The only NTVRPs 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 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 SMFF contracts and Funding Agreements

Since publishing the Club's circular dated 18 October 2013, 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

The Club has placed links to, or copies of, several of the above documents on the its website.

Members can check that their versions of these contracts are correct by referring to these documents. However, Members should always check rates in force at the time of contracting.

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 ship owners. However, this form has been incorporated into a number of the OPA90 SMFF Funding Agreements reviewed by the IG. 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 IG.

MSRC and NRC OSRO Contracts

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

These documents are available on the Club's website.

Alaska – Alternative Planning Criteria for Non-Tank vessels

We refer to the Club's circular dated 30 December 2013. The Alternative Planning Criteria (APC) for non-tank vessels for Western Alaska can be viewed by clicking on the link www.ak-mprn.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 APC in order to fulfil federal requirements. At present the only option available is to enrol with Alaska Maritime Prevention and Response Network ("the Network"). However, the terms of the enrolment agreement do not conform with IG guidelines on Vessel Response Plans. At the request of the IG, various changes have been made to the enrolment agreement and it is hoped that resolution of outstanding items will be reached shortly. The IG remains in contact with the 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 issued some guidance on the APC for D14 Remote Zone. This region encompasses American Samoa, Guam and the Northern Marianas. Various interim operational 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. It is understood that the contractual requirements are as follows:

American Samoa

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

Contractual requirements:

- Contract with a local OSRO plus a contract with either of NRC or MSRC; and
- A salvor contract or funding agreement

Available local OSROs are:

- Solar
- Green Ops Inc.

The IG has reviewed a contract with Solar and whilst there are certain minor issues with the contract that the IG 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 Inc. Once a copy is obtained, this will be reviewed and comments circulated to Members.

We are not aware of any official list of appropriate salvors within the area.

Guam & CNMI (*Commonwealth of the Northern Mariana Islands*)

Applicable to tank vessels & non-tank vessels with fuel or cargo capacity 2,500 bbls or more

Contractual requirements:

- A contract with a local OSRO only (a contract with NRC or MSRC is not required); and
- A salvor contract or funding agreement

Available local OSROs are as follows:

- Guam Response Services Limited (GRSL)
- Oil Spill Response Operations Company LLC/T&T (OSROCO T&T)

The IG has reviewed contracts with GRSL and OSROCO T&T. The contracts with OSROCO T&T 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 with International Group guidelines. Shipowners contracting with GRSL may expose themselves to risks falling outside the scope of club cover for which additional insurance will be needed. For further details of additional insurance Members should contact the Managers.

We are not aware of any official list of appropriate salvors within the area.

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, and they are required to meet the Final Rule requirements by 30 January 2014 (see 33 CFR 155.5050).

Yours faithfully
Tindall Riley (Britannia) Ltd
Managers

This circular should not be placed in the Binder