

中国船东互保协会文件

中船保保字【2013】12号

关于美国船舶应急计划的通函

各会员公司：

根据美国现行法律规定，进入美国水域营运或在受美国管辖的港口或地点转运油品的所有油轮船舶和 400 总吨以上非油轮船舶需随船备有经美国海岸警备队批准的船舶应急计划（VESSEL RESPONSE PLAN）以应对油污。

船舶应急计划中必须记载下述内容：针对具体航行区域的具有完全授权、负责实施应急计划的合格人员（QUALIFIED INDIVIDUAL，简称 QI）和油污应急组织（OIL SPILL RESPONSE ORGANIZATION，简称 OSRO）。目前进入美国水域的入会船舶，均由协会与一个国际保赔集团成员协会共保。根据协会保险条款和参加共保的国际保赔集团成员协会的保险条款的规定，会员在此方面，应该确保符合下文提及的国际保赔集团制订的各种“指南”。

关于非油轮船舶的船舶应急计划的最终规则（下称“该规则”）已于 2013 年 9 月 30 日在美国联邦公报上发布。该规则要求非油轮船舶的船东在 2014 年 1 月 30 日前向美国海岸警备队提供船舶应急计划。该规则要求非油轮船舶的船东与合格人员、油污应急组织、分散剂服务提供商

(DISPERSANT SERVICE PROVIDERS)和救助人(SALVORS)提前签订合同。

一、海上救助资金合约

非油轮船舶

装载量超过 2, 500 桶燃料油及货油的非油轮船舶的船东被要求与救助人和海上消防机构 (SALVORS AND MARINE FIRE-FIGHTING RESOURCES) 签订资金协议。对此类船舶的要求与对油轮船舶的要求基本一致。国际保赔集团已经审查了五家救助人拟订的资金协议文本并且认定这些协议文本符合国际保赔集团有关船舶应急计划的救助指南(请见附件一)。以下是被确认符合指南的救助人提出的协议文本:

Donjon-Smit (Tanker and Non-Tank) Version A - October 4, 2013

Marine Response Alliance LLC Version -16 October 2013

Resolve Salvage & Fire (Americas) Inc Version 3-1 October 2013

Svitzer USA Companies Version-October 1 2013

Svitzer INTL Companies Version-October 1 2013

T&T Salvage LLC USA Owner (Tanker and Nontank) Version-4 October 2013

T&T Salvage LLC - Non-US Owner (Tanker and Nontank) Version-4 October 2013

装载量超过 250 桶又不足 2, 500 桶燃料油及货油的非油轮船舶的船东仅被要求在船舶应急计划中列明救助及消防服务的提供方, 并要求救助及消防服务的提供方在协议中列明船东可以获得这些服务, 不需要与服务提供方签订一个全面的资金协议。以下是此种情况下被确认符合指南的救助人提出的协议文本:

Donjon-Smit Consent Agreement for Vessel Response Plans -October

4 2013

Marine Response Alliance LLC: MPA OPA 90 & CA Certificate of Coverage
(Version 2013)

Resolve Salvage & Fire (Americas) Inc: RMG OPA 90 Certificate of
Coverage 01 October 2013

Svitzer Written Consent-Version Oct 2013

T&T Salvage LLC : OPA 90 Written Consent- 4 October 2013

会员应当注意到，不同于美国海岸警卫队对油污应急组织做出资质评定，对于救助人和海上消防机构是否达到规则中提出的 15 项要求（请参附件二），要由船东或经营人自己进行判断。鉴于针对非油轮船舶的救助和海上消防的要求即将生效，美国海岸警卫队发布了修订后的常见问题单（请参附件三）。

油轮船舶

鉴于要求非油轮会员与救助人和海上消防机构签订资金协议，救助入已经修改了他们的资金协议（如上文所述），以便该协议的范围能够覆盖油轮船舶与非油轮船舶。未来，油轮船舶的船东与救助入之间新的资金协议也将使用修改后的版本。

然而，对于油轮船舶的船东与救助入之间已经存在的资金协议，协会会员不需更换到新的版本。

建议会员就选择具体的合同和资金协议等问题咨询其船舶险保险人。如船舶计划前往美国，请与救助入确认：其可以在美国所有地理区域内提供满足上述 15 条要求的救助活动。协会提请会员注意：被确认符合国际保赔集团有关救助资金协议指南并不意味着会员就可以完全接受未经审核的费率。就此问题，会员还需要与其船舶险保险人协商。

二、 油污应急合同

非油轮船舶

为了达到油污应急反应的要求，非油轮船舶的船东需要选择与主要油污应急组织—海事油污应急机构（以下简称 MSRC）或国家应急机构（以下简称 NRC）签订合同。以前，绝大多数国际保赔集团成员协会与 MSRC 和 NRC 都签订合同以使非油轮船舶的船东在准备加利福尼亚州船舶应急计划时可选择指定其中之一或二者均选用。对国际保赔集团成员协会来说，很难将上述做法扩展适用到联邦船舶应急计划中来。将来，非油轮船舶的船东需要直接与 MSRC 或是与 NRC 签订合同。建议会员与向各自的合格人员或船舶应急计划编制人寻求帮助。

MSRC 和 NRC 均已经公布了符合国际保赔集团制订的“指南”的油污应急合同，具体版本情况如下：

MSRC: footer (September 27, 1996)

NRC: header (September 15, 2004)

MSRC和NRC都有提供必要的分散剂服务的能力，以使非油轮船舶的船东能够遵守新的法规。MSRC目前提供的服务合同的条款符合国际保赔集团制订的“指南”，且不收取任何额外费用。而为其服务合同条款符合国际保赔集团制订的“指南”，NRC提供的服务将可能收取额外费用。详细信息，会员可访问下述网址获得：

MSRC www.msrc.org/

NRC www.nrcc.com/

MSRC 的联系人为: Judith Roos - Tel: (703) 326 5617

- roos@msrc.org

MPA 的联系人为: Brett Drewry - Tel: (480) 991 5599
- bdrewry@mpaz.org

NRC 的联系方式为:

Tel: (631) 224-9141 (24hrs) - clientservices@nrcc.com (Client Service Group)

NRC 的联系人为:

Bryan Bell (Primary) (631) 259-6664 - bbell@nrcc.com

Deborah Wick (Alternate) (631) 892-3392 - dwick@nrcc.com

油轮船舶

参协会中船保赔字[2011]24号《关于美国海事油污应急机构(MSRC)增加使用分散剂的附录的通函》，在该通函中协会向油轮船舶的会员通报了有关油轮船舶在其船舶应急计划中选择一家分散剂服务提供商的要求已于2011年9月正式生效。MSRC和NRC都有提供分散剂服务的能力。MSRC和NRC有关提供上述服务的合同的附录中的某些条款会导致船东需承担可能未在协会承保范围内的责任。但会员可通过协会对此类责任从保险市场另行获得保险保障。

2013年11月25日，MSRC已经通知海洋保护协会(Marine Preservation Association (MPA))的油轮会员，MSRC已经撤销了针对油轮会员的分散剂服务合同的附录。因此，油轮船东已经不再需要针对该附录购买额外的保险。已经通过协会以定期保险方式安排了额外保险的会员可与协会进行联系。至于NRC，由于船东可以选择支付额外费用而不将合同附录并入合同，从而避免船东需承担可能未在协会承保范围内的责任情况的出现。

协会提请油轮会员和非油轮会员均注意：无论船舶应急计划中选择的是MSRC还是NRC，如果船舶需要挂靠夏威夷港，在船舶应急计划中必须要选择岛屿清洁委员会（Clean Islands Council）。岛屿清洁委员会的合同目前不符合国际保赔集团制订的美国水域船舶应急计划合同签订指南，对由此产生的责任会员如需从保险市场获得保险保障，可以与协会联系。

协会将继续跟踪该计划实施的进展，并将重要情况及时向会员通报。



附：

附件一：国际保赔集团有关船舶应急计划的救助指南（International Group Guidelines for Insertion of Salvor Contracts in US VRPs）

附件二：美国海岸警备队对于救助人和海上消防机构是否达到规则中提出的15项要求（33 CFR part 155.4050 - Ensuring that the salvors and marine fire fighters are adequate 15 criteria）

附件三：美国海岸警备队修订后的常见问题单（Nontank Vessel Response Plans (NTVRP) - Frequently Asked Questions December 02, 2013）

主题词：美国 船舶应急计划

抄报：马董事长、张副董事长、高副董事长、各位董事

中国船东互保协会

2013年12月12日印发

Annex 1

International Group Guidelines for Insertion of Salvor Contracts in US VRPs (not Wreck Removal)

1. Owner's Representative

The Owner shall have a right to appoint a representative to attend the salvage operation. This representative should be consulted where possible by the salvage master over the conduct of operations and should also sight time records on a daily basis. If there is disagreement over a particular action or charge, the owner's representative should issue a note of protest in order to preserve the record in case of future disputes.

2. Control

Whilst it is recognised that during a salvage operation, the salvage master will have overall control, the agreement should contain a provision requiring the salvors to consult owner or owner's representative during the operation. Similarly owner's representative should be permitted to offer advice to the salvage master/contractor's representative.

3. Funding

The Association will not provide advance funding guarantees.

If SCOPIC is applicable, then SCOPIC terms unamended. If the funding agreement is a simple time and materials this would be a matter for discussion with property underwriters, since P&I cover would not apply. The Owner may want to take the following into consideration:

(i) A fixed limit.

(ii) A fixed time limit for the services, i.e. the letter would guarantee expenses incurred in providing response services up to a fixed period of time as appropriate (e.g. seven days from the incident date) subject to extension by written agreement of the guarantor.

(iii) A haul-off clause which provides for the guarantor's liability to be terminated upon 24 hours' notice.

4. Salvage remuneration

It should be made clear that the contractor and any sub-contractors are not entitled to salvage remuneration over and above that allowed for in the contract and that in the event that the shipowner becomes liable for such remuneration, the contractor will immediately indemnify them.

5. Indemnity

The clauses should be even-handed as regards the liabilities of the shipowner and the contractor and should be based on

simple negligence rather than gross negligence. Thus the contractor should be liable for the negligent acts of himself and his employees, etc. and the shipowner should be liable for the negligent acts of the shipowner and his employees, etc. and losses which would not have arisen but for the nature of the spill.

6. Warranties

Agreement should contain warranties that the services and equipment are adequate/fit for the purpose for which it is hired; when contracting for services in the United States of America, the salvor fulfils the 15 criteria set out in 33 CFR 155.4050.

7. Insurance

Care should be taken to ensure that the contractor maintains insurance to respond to his liabilities for the services which he intends to provide.

8. Law and jurisdiction

England. In certain circumstances another jurisdiction may be appropriate.

9. Disputed invoices

If the contractor inserts payment time limits in his contract, then a provision should be inserted that payment of 80 per cent is made within a certain time limit (approximately 30 days) and

the balance when the dispute is settled.

10. Interest

If interest is charged on outstanding balances it is recommended that it is one or two percent above normal commercially available bank lending rates.

11. Confidentiality

Some contracts contain a confidentiality provision. Any provision inserted should at least ensure that an owner can discuss the contract with his P&I insurer.

Annex 2

33 CFR part 155.4050 – Ensuring that the salvors and marine fire fighters are adequate 15 criteria

a) You (plan holder) are responsible for determining the adequacy of the resource providers you intend to include in your plan.

b) When determining adequacy of the resource provider, you must select a resource provider that meets the following selection criteria to the maximum extent possible:

(1) Resource provider is currently working in response service needed.

(2) Resource provider has documented history of participation in successful salvage and/or marine firefighting operations, including equipment deployment.

(3) Resource provider owns or has contracts for equipment needed to perform response services.

(4) Resource provider has personnel with documented training certification and degree experience (Naval Architecture, Fire Science, etc).

(5) Resource provider has 24-hour availability of personnel and equipment, and history of response times compatible with the time requirements in the regulation.

- (6) Resource provider has on-going continuous training program. For marine firefighting providers, they meet the training guidelines in NFPA 1001, 1005, 1021, 1405, and 1561 (Incorporation by reference, see § 155.140), show equivalent training, or demonstrate qualification through experience.
- (7) Resource provider has successful record of participation in drills and exercises.
- (8) Resource provider has salvage or marine firefighting plans used and approved during real incidents.
- (9) Resource provider has membership in relevant national and/or international organisations.
- (10) Resource provider has insurance that covers the salvage and/or marine firefighting services which they intend to provide.
- (11) Resource provider has sufficient up front capital to support an operation.
- (12) Resource provider has equipment and experience to work in the specific regional geographic environment(s) that the vessel operates in (e.g. bottom type, water turbidity, water depth, sea state and temperature extremes).
- (13) Resource provider has the logistical and transportation support capability required to sustain operations for extended

periods of time in arduous sea states and conditions.

(14) Resource provider has the capability to implement the necessary engineering, administrative, and personal protective equipment controls to safeguard the health and safety of their workers when providing salvage and marine firefighting services.

(15) Resource provider has familiarity with the salvage and marine firefighting protocol contained in the local ACPs for each COTP area for which they are contracted.

c) A resource provider need not meet all of the selection criteria in order for you to choose them as a provider. They must, however, be selected on the basis of meeting the criteria to the maximum extent possible.

d) You must certify in your plan that these factors were considered when you chose your resource provider.

External firefighting teams means trained firefighting personnel, aside from the crew, with the capability of boarding and combating a fire on a vessel.

External vessel firefighting systems mean firefighting resources (personnel and equipment) that are capable of combating a fire from other than on board the vessel.

These resources include, but are not limited to, fire tugs,

portable fire pumps, airplanes, helicopters, or shore side fire trucks.

Resource provider means an entity that provides personnel, equipment, supplies and other capabilities necessary to perform salvage and/or marine firefighting services identified in the response plan, and has been arranged by contract or other approved means. The resource provider must be selected in accordance with § 155.4050. For marine firefighting services, resource providers can include public firefighting resources as long as they are able, in accordance with the requirements of § 155.4045(d), and willing to provide the services needed.

Annex 2.1

Contracts and Funding Agreements

SMFF Regulation: Frequently Asked Questions

Extract:

4. Can we use a Lloyd's Open Form in Lieu of a funding agreement?

A Lloyd's Standard Form of Salvage Agreement (LOF) alone does not meet the funding agreement definition because it does not contain agreed upon rates for specific equipment and services.

The regulatory intent is to prevent any delay in response due to price or other contractual negotiations. The Coast Guard is willing to consider the LOF in lieu of a funding agreement under

the following conditions:

1) The LOF is submitted with and identified in the entire agreement between the primary resource provider and the vessel owner or operator; and

2) The LOF is signed by both the primary resource provider and the vessel owner or operator at the time it is submitted with the contract or other approved means to the Coast Guard.

3) If the LOF is submitted as outlined above, the Coast Guard believes that the regulatory intent of preventing any delay in response due to contractual negotiations will be met and we should consider the submission as an acceptable alternative under the contract or other approved means definition contained in 33 CFR 155.4025.

5. What about using other standard salvage contracting forms? The Coast Guard may consider other types of standard salvage contracting forms as an acceptable alternative under the contract or other approved means definition in lieu of a funding agreement if such forms are submitted in a manner similar to that which is described above for the LOF.

**Nontank Vessel Response Plans (NTVRP) – Frequently Asked Questions
December 02, 2013**

If there is a discrepancy between this document and the regulations, the regulations control.

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*The current version of this document may be found on the Coast Guard’s Homepage website. It is located in Missions > Environmental > Vessel Response Plan Program > Nontank Vessel Response Plans > Important NTVRP Documents: “NTVRP Frequently Asked Questions”
Relevant documents are available for review or download.*

ANNUAL REVIEW OF NONTANK VESSEL RESPONSE PLANS

1. Please clarify the requirements for annual NTVRP reviews. Is there a requirement for the vessel owner or operator to submit a letter to the Commandant reporting that the annual review was accomplished?

Nontank vessel owners or operators are required to complete an oil spill response plan review annually, but it does not need to be reported to the Coast Guard. [33 CFR.155.5070(a)]

APPLICABILITY OF NONTANK VESSEL RESPONSE PLAN REGULATIONS

1. Do the NTVRP regulations apply to a vessel that operates outside the 12 nm territorial sea?

If the nontank vessel is not operating on the navigable waters of the U.S., they do not need to comply with the nontank regulations until they are operating on the navigable waters of the U.S. Navigable waters of the U.S. includes the waters of the territorial sea, and all the water within the U.S. tributary thereto, out to 12 nm for both tank vessels and non-tank vessels insofar as the response plan requirements of 311(j)(5) are concerned.

2. How are we able to require a geographic specific appendix for nontank vessels out to 200 nm if the law and the regulations for nontank vessels only applies to those vessels when they're in "navigable waters"?

Tank and nontank vessel regulations are written in such a way as to require a geographic specific appendix for every Captain of the Port zone, some of which are defined as extending out 200 nm, through which the vessel operates. It can be required that the vessel must comply with our VRP regulations when operating in the navigable waters of the U.S. and entering or leaving a U.S. port, consistent with international law, as a matter of port entry jurisdiction.

3. Do the NTVRP regulations apply to a vessel that operates on inland waters?

Yes, NTVRP regulations apply to a vessel that operates on inland waters if the vessel is 400 GT or more, self-propelled, and a nontank vessel. The navigable waters of the U.S. includes the waters of the territorial sea, and all the water within the U.S. tributary thereto (inland waters), out to 12 nm for both tank vessels and non-tank vessels insofar as the response plan requirements of 311(j)(5) are concerned.

4. NTVRP requirements apply to vessels 400 gross tons or more. When a vessel is measured under both the convention and regulatory measurement systems, which prevails for applicability determination purposes?

The convention (international) measurement system takes precedence. The regulatory (domestic) measurement system is only to be used if the vessel is NOT measured under the convention system. [33 CFR 155.5015(a)(4)]

AREA CONTINGENCY PLANS

1. Area Contingency Plans contain information about the places where my vessels go, including response resource provider information. Where can I locate these plans?

The Coast Guard's HOMEPORT website, <http://homeport.uscg.mil>, has a Port Directory link at the top left of the screen. When you open that link by double clicking it, you will see a "Select Coast Guard Unit" text box with a drop down arrow. Click on the arrow to reveal a unit list and select the one that is of interest to you. The "Safety and Security" section is midway down on right hand side of the screen contains an "Area Contingency Plan" folder containing the most recent Area Contingency Plan in a downloadable format.

Should you have an issue obtaining the most up to date version of a plan, contact the ACP Program Manager in the Office of Marine Environmental Response Policy.

CANCELLATION OF NVIC 01-05, CH-1

1. Our NTVRP was prepared according to NVIC 01-05, CH-1. Is that NVIC still in effect?

While Navigation and Vessel Inspection Circular (NVIC) No. 01-05, CH-1, "Interim Guidance for the Development and Review of Response Plans for Nontank Vessels" remains in effect until 30 January 2014, you must submit NTVRPs that comply with the requirements of the "Nontank Vessel Response Plans and Other Response Plan Requirements" final rule. The Coast Guard intends to cancel NVIC 01-05, CH-1 once the compliance deadline for submission of NTVRPs is reached on 30 January 2014.

CERTIFICATION STATEMENTS

1. What is a certification statement?

When the vessel owner or operator submits a vessel response plan to the Coast Guard for review, the owner or operator shall include a statement certifying that the plan meets the applicable requirements of Title 33, Code of Federal Regulations, Part 155, Subparts D, E, F, G, and J. [33 CFR 155.1065(b); 33 CFR 155.5065(b)]

2. It appears that we can submit the certification statement on behalf of our vessel owner or operator client when they fill out and sign CG Form “Application for Approval/Revision of Vessel Pollution Response Plans” (CG-6083). Is this correct?

Yes. Certification statements may be submitted by cover letter or by using CG Form “Application for Approval/Revision of Vessel Pollution Response Plans” (CG-6083), in lieu of a cover letter. [33 CFR 155.1065(b); 33 CFR 155.5065(b)]

Form CG-6083 is located at: http://www.uscg.mil/forms/CG/CG_6083.pdf or on the VRP Program’s Homeport site.

DIFFERENCES BETWEEN THE NTVRP PROPOSED AND FINAL RULES

1. What are the differences between the proposed and final rules for NTVRPs?

The Coast Guard revised a number of sections to alleviate the burden of the rule in response to public comments or to clarify requirements. [NTVRP Final Rule, September 30, 2013. Page 60103, Preamble Section V, Summary of Changes]

1. Allows nontank owners or operators to submit their VRP electronically.
2. Removes the annual plan review reporting requirement.
3. Refers to additional oil spill planning standards found in 30 CFR Part 254 for nontank vessels that are mobile offshore drilling units.
4. Clarifies applicability for secondary carriers.
5. Clarifies requirements for onetime port waivers for remote areas.
6. Removes the revised definition “vessels carrying oil as secondary cargo” as previously proposed.
7. Revises the definition for “nontank vessels” for clarity and for purposes of consistency.
8. Allows vessels to carry electronic copies onboard.
9. Removes requirement for vessels to have original, notarized copies of the VRP onboard.
10. Allows vessels to identify their insurance provider instead of insurance representatives.
11. Adds the requirement that vessels must state their 24-hour point of contact/local agent before arriving in a port if they have not done so in their VRP.
12. Aligns the appeal procedures between Tank Vessel Response Plans for Oil and new Nontank Vessel Response Plans.
13. Clarifies salvage and marine firefighting applicability for nontank vessels.
14. Revises the definitions of “cargo” and “navigable waters of the United States.”
15. Added the definition of “transfer” to clarify that transfer means those that take place to and from vessels for the purposes of 33 CFR Part 155, Subpart J.
16. Revises the definition for “worst case discharge” (WCD) to maintain alignment between new Subpart J and tank regulations in 33 CFR Part 155, Subpart D. The Coast Guard may change these requirements in a future rulemaking.

17. Rewords sentences that might be confusing and broke up paragraphs into smaller paragraphs to make them easier to read and to improve clarity.
18. Allows vessel owners or operators to submit one plan to represent multiple vessels.
19. Vessels need only carry those VRP sections onboard their vessels the Coast Guard deemed necessary to initiate notifications and crew response.
20. Clarifies the new Alternative Training and Exercise Program.
21. Updates the Coast Guard Headquarters' mailing address.

CONTRACTS FOR OSRO COVERAGE

1. With regard to OSRO contracts and NTVRPs, what must be submitted to the USCG for plan approval under 33 CFR 155, Subpart J - Nontank Vessel Response Plans?"

The OSRO services that must be planned for by contract or other approved means in NTVRPs are specified below by oil capacity:

- A. NONTANK VESSELS WITH 2,500 BARRELS CAPACITY OR GREATER require contracts or other approved means for response resources as follows:

Contract, per 33 CFR 155.5020, "Contract or other approved means," (1) – (4)
[See also §§155.1050; 155.5050(h)]

<u>Resource Category</u>	<u>Regulatory Requirement</u>
• AMPD (vessel carries oil as cargo)	[§§155.5050(d)(1)]
• MMPD	[§§155.5050(e)(1)]
• WCD Tier 1	[§§155.5050(f) and (g)]
• Dispersant (pre-authorized area)	[§§155.5050(j)(1)]
• Aerial Tracking (not inland areas)	[§§155.5050(k)(1)(i), and (2)]
• Shoreline Protection	[§§155.5050(l)]
• Shoreline Cleanup	[§§155.5050(m)]

- B. NONTANK VESSELS WITH LESS THAN 2,500 BARRELS CAPACITY, BUT GREATER THAN OR EQUAL TO 250 BARRELS:

Contract, per 33 CFR 155.5020, "Contract or other approved means," (1) – (4)
[See also §§155.1050; 155.5050(h)]

<u>Resource Category</u>	<u>Regulatory Requirement</u>
• MMPD	[§§155.5050(e)(1)]
• Shoreline Protection	[§§155.5050(l)]
• Shoreline Cleanup	[§§155.5050(m)]

Written Consent per 33 CFR 155.5020, “Contract or other approved means,” (5)

<u>Resource Category</u>	<u>Regulatory Requirement</u>
• AMPD (vessel carries oil as cargo)	[§§155.5050(d)(1)]
• Dispersant (pre-authorized area)	[§§155.5050(j)(2)]
• Aerial Tracking (not inland)	[§§155.5050(k)(1)(ii), and (2)]

C. NONTANK VESSELS WITH LESS THAN 250 BARRELS CAPACITY:

Written Consent per 33 CFR 155.5020, “Contract or other approved means,” (5)

<u>Resource Category</u>	<u>Regulatory Requirement</u>
• AMPD (vessel carries oil as cargo)	[§§155.5050(d)(1)]
• MMPD	[§§155.5050(e)(2)]

CONTRACTS AND FUNDING AGREEMENTS UNDER SUBPART I FOR
SALVAGE AND MARINE FIREFIGHTING (SMFF) SERVICES

1. What nontank vessels are required to contract for salvage and marine firefighting in accordance with Subpart I?

Self propelled nontank vessels 400 gross tons or more with a capacity of 2,500 barrels or greater must meet the salvage, emergency lightering and marine firefighting requirements found in Subpart I.

2. Does the Coast Guard give SMFF providers salvage contract review letters for their Subpart I contracts?

No, there is no regulatory requirement for salvage and marine firefighting contract review letters.

3. What are the requirements for a salvage and marine firefighting contract under Subpart I?

Subpart I definitions of “contract or other approved means” and “funding agreement” provide salvage and marine firefighting contracting details. Contracts are expected to be in line with the following criteria:

- It is a written contractual agreement and funding agreement between a vessel owner or operator and resource provider and signed by both.
- The funding agreement identifies agreed upon rates for specific equipment and services to be made available by the resource provider under the agreement.
- Expressly provides that the resource provider "is capable of, and intends to commit to, meeting the plan requirements".
- States how long the agreement remains in effect.

- Contract and funding agreement ensure that salvage and marine firefighting are in place.
- Assures that responses are not delayed due to funding negotiations.
- Must be provided to the Coast Guard by the vessel owner / operator with the VRP for approval.

The VRP Program expects SMFF nontank contracts to adhere to these criteria. Where this is found not to be the case, the contracts will not be accepted. [33 CFR 155.4020]

4. Where can I find further information about Subpart I salvage and marine firefighting contracts?

Navigation and Vessel Inspection Circular 2-10 covers salvage and marine firefighting contracts in detail. NVIC 2-10 may be downloaded from the Coast Guard's Homeport website: <http://homeport.uscg.mil>
>Missions > Environmental>Vessel Response Plan Program>Salvage and Marine Firefighting>Salvage and Marine Firefighting NVIC>NVIC 2-10.

CONTRACTS - WRITTEN CONSENT REQUIREMENTS

1. What is "written consent"?

The vessel owner or operator may only list response resource providers in their response plan that have been arranged by contract or other approved means.

The vessel owner operator must obtain written consent from the resource provider stating that they agree to be listed in the vessel response plan.

- For salvage contracting, the consent must state that the resource provider agrees to provide the services that are listed in 33 CFR 155.4030(a) through (h) and that these services are capable of arriving within the response times listed in Table 155.4030(b).
 - For OSRO contracting, contract or other approved means includes, with the written consent of the OSRO, the identification of an OSRO with specified equipment, and personnel which are available within stipulated response times in the specified geographic areas.
2. A resource provider's written consent to be listed in an NTVRP is considered an "other approved means" instead of a contract for some NTVRP response resources. Which nontank vessels are only required to establish written consent to be listed in the NTVRP, and for which response resources?

With regard to self-propelled nontank vessels 400 gross tons or more:

- a. Those nontank vessels with an oil capacity of 250 to 2,500 barrels are required to establish written consent to be listed in the NTVRP from the providers of salvage, emergency lightering, firefighting, dispersant, and aerial tracking services.
- b. Those nontank vessels with an oil capacity below 250 barrels are required to establish written consent to be listed in the NTVRP from the providers of MMPD and salvage services.

Written consent is considered an acceptable “other approved means” for vessels with an oil capacity under 2,500 barrels. See 33 CFR 155.5020, paragraph (5) of the definition of “Contract or other approved means.”

3. Must written consent agreements be submitted with the VRP?

Written consent agreements must be submitted with the NTVRP for self-propelled nontank vessels 400 gross tons or more with less than 2,500 barrels oil capacity.

Please be advised that written consent agreements are required to be submitted with the NTVRP when the written consent functions as an “other approved means.” This means that nontank vessels with an oil capacity under 2,500 barrels as described in the answer to the previous question must submit written consent agreements with their NTVRP. [33 CFR 155.5050]

Written consent agreements need not be submitted with the NTVRP for self-propelled nontank vessels 400 gross tons or more with 2,500 barrels or greater oil capacity.

The written consent agreement is not required to be submitted with the NTVRP for vessels with an oil capacity of 2,500 barrels or above. For self-propelled nontank vessels of 400 gross tons or more with oil capacity of 2,500 barrels or greater, the written consent may be included with the contract with the resource provider or in a separate document. This written consent must be available to the Coast Guard for inspection. The response plan must identify the location of this written consent, which must be on board the vessel, or with a qualified individual located in the United States. [33 CFR 155.4045]

4. What other requirements must nontank vessels submitting only written consents plan for in their NTVRP ?

33 CFR 155.5050(p) requires nontank vessels with a oil capacity less than 2,500 barrels to only identify and plan for response resources, but does not require availability by contract. While the Coast Guard does not require contracts for these vessels, we believe that requiring these vessels to plan for and comply with all of the other requirements of Subpart I is sufficient.

CONTRACT SIGNATURES

1. Will the Coast Guard accept signed contracts by third parties?

Yes, the Coast Guard will accept contracts signed on behalf of a vessel owner or operator by an authorized agent or power of attorney. The contract must still be between the vessel owner or operator and the resource provider rather than with a third party.

33 CFR 155.5035 requires the nontank vessel owner / operator (O/O) to identify in NTVRPs resource providers that are "ensured available" in the case of an actual or potential discharge, "through contract or other approved means." "Contract or other approved means" is defined in 33 CFR 155.5020 as including, among other things, written contractual agreements between the nontank vessel O/O and the resource provider. This definition does not prevent an agent of the nontank vessel O/O from arranging or entering into the contract on behalf of the nontank vessel O/O. Using a Power of Attorney, the contract is between the nontank vessel O/O and the resource provider, with the QI as agent. It is not the Coast Guard's intention to dictate the exact contractual arrangement that meets the intent of this regulation. The Coast Guard's purpose is to ensure the requirement of a contractual relationship between the nontank vessel O/O and the resource provider is present in the event of an actual or potential discharge.

2. Will the Coast Guard accept a QI's signature on a contract?

Yes, the Coast Guard will accept contracts signed on behalf of a vessel owner or operator by an authorized agent or power of attorney. The contract must still be between the vessel owner or operator and the resource provider rather than with a third party.

3. Will the Coast Guard accept electronic signatures on contracts?

Yes, use of authorized electronic signatures will be accepted.

DAMAGE STABILITY AND ASSESSMENT OF STRUCTURAL STABILITY

1. What do damage stability services typically encompass?

Damage stability services typically encompass the following:

- a. A database of pertinent aspects of the vessel's structure, materials, machinery and equipment
- b. A computer model of the vessel that will allow for damage stability and residual strength analysis
- c. Evaluation of salvor's or operator's plans for off-loading, ballasting or cargo transfer sequences to improve residual stability and reduce hull girder stresses and ground force reaction

- d. Extensive calculation routines, which include:
- bending and shear stresses caused by pinnacle loads from grounding or stranding
 - residual hull girder strength based on the reported extent of damage
 - residual stability when the vessel's compartments are breached
 - hull girder strength in damaged condition with wave loading
 - hull girder ultimate strength
 - local strength in the damaged area
 - local buckling and ultimate strength

The above would all fall under "calculations", since the process involves only modeling, computing and information exchange. The salvor will then use the data provided (in consultation with the QI, master and operators) as part of the response effort.

It seems clear that an external provider capable of providing damage stability services must be identified in the NTVRPs. Few, if any, operators could provide such a service in-house, since a typical vessel's stability-calculating equipment is designed to calculate static intact stability data (while fully afloat, with a watertight hull). Such equipment would be incapable of calculating the vessel's dynamic stability which is necessary after an incident involving loss of watertight integrity and/or a ground reaction.

2. Given the above, what damage stability calculation services from Subpart I must nontank vessels plan for and identify in their VRPs?

"Damage stability calculation" service is not a defined service within Subpart I.

33 CFR 155 Subpart I requires the vessel owner or operator to identify "Assessment of Structural Stability" services by contract or other approved means. "Assessment of structural stability" means completion of a vessel's stability and structural integrity assessment through the use of a salvage software program. The data used for the calculations would include information collected by the on-scene salvage professional. The assessment is intended to allow sound decisions to be made for subsequent salvage efforts." [33 CFR 155.4025]

Pre-planning for the "assessment of structural stability" is intended to facilitate rapid response by salvage providers who are able to accomplish the defined services within specified timeframes in the event of an incident. Timeframes for "assessment of structural stability" are either 12 or 18 hours, depending upon the operating area of the vessel. The timeframe starts when anyone in the vessel owner or operator's response organization receives notification of a potential or actual incident. The response timeframe ends for "assessment of structural stability" when the initial analysis is completed. "Assessment of structural stability" is a continual process, but by the end of the specified timeframe an analysis needs to be completed. [33 CFR 155.4040]

The decision whether or not adequate planning for “assessment of structural stability” includes arranging to pre-load a computer model with relevant vessel-specific data prior to an incident is the responsibility of the vessel owner or operator. The vessel owner or operator is responsible for determining the adequacy of the resource providers included in their plan. [33 CFR 155.4050]

3. Are nontank vessels required to contract for damage stability services?

No. “Damage Stability Services” are not defined in Subpart I. Nontank vessels are required to contract for “assessment of structural stability” services, as defined in 33 CFR 155.4025.

4. The definition of “assessment of structural stability” in Subpart I refers to 33 CFR 155.240 and .245. These regulations discuss damage stability and residual strength computer calculation requirements for tank vessels? Do these parts apply to nontank vessels?

33 CFR 155.240 and .245 do not apply to nontank vessels.

The definition of “assessment of structural stability” in Subpart I (salvage and marine firefighting) addresses both Subpart D (tank vessel response plans) and Subpart J (nontank vessel response plans). The references in the definition of “assessment of structural stability” to 33 CFR 155.240 and .245 are clearly applicable only to tank vessels regulated under Subpart D.

5. Must nontank vessel data be pre-entered into computer models for damage stability calculations?

No, pre-entry of vessel data into computer models is an option, but it is not mandated in all cases by the regulations. Although the “assessment of structural stability” service provider must be able to complete a vessel's stability and structural integrity assessment within timeframes through the use of a salvage software program, regulations do not specifically require pre-entry of vessel data into a computerized model for nontank vessels.

DATES FOR NONTANK VESSEL COMPLIANCE

1. What is the effective date of the NTVRP final rule?

The NTVRP final rule has both an effective date and implementation (compliance) date. The effective date of October 30, 2013 is when the final rule enters into force. The effective date is generally the compliance date unless a separate compliance date is designated, as established for NTVRP submissions in this final rule.

2. What is the compliance date for the Notice of Arrival requirements?

The compliance date for some Notice of Arrival requirements that are part of the NTVRP final rule is October 30, 2013.

This final rule requires the submission of VRP Control Numbers for both tank and nontank vessels as part of already required notice of arrival information listed in 33 CFR 160.206(a). The Coast Guard's electronic notice of arrival (eNOA) online form already requires a submitter to check a box when they have a nontank (*emphasis added*) VRP and provides a control number entry field when the box is checked in the affirmative. Nontank vessels should continue to submit their VRP Control Number in this manner. At this time, no such prompt or entry field exists for tank vessels. Therefore, until an entry field is added to the eNOA submission form for tank vessels, the Coast Guard advises tank vessel owner or operators to list their tank VRP Control Numbers in the eNOA comments field.

Since the October 30, 2013 effective date of this requirement does not align with the January 30, 2014 compliance date for submission of nontank VRPs, and to ensure consistency with our previous enforcement policy for nontank vessels 1,600 gross tons and above, the Coast Guard will enforce this new notice of arrival submission requirement by the following eNOA submission timelines:

1. October 30, 2013 – Tank Vessels
 2. October 30, 2013 – Nontank Vessels (1,600 gross tons or greater; use VRP Control Number listed in existing IOAs)
 3. January 30, 2014 – Nontank Vessels (400 – less than 1,600 gross tons)
3. Is the NTVRP compliance date January 30, 2014, per 33 CFR 155.4020?

Yes. The final rule establishes January 30, 2014 as the date of compliance by which a vessel owner or operator is required to submit and operate under a vessel response plan that meets the new regulatory requirements of 33 CFR 155, Subpart J. As a result, existing Interim Operating Authorizations (IOAs) will remain valid until the compliance date of January 30, 2014, or until they are replaced with an approval letter or new IOA that specifically refers to compliance with “Title 33, Code of Federal Regulations, Part 155, Subpart J.”

Nontank vessels with existing IOAs must resubmit their plan, with required revisions, for approval before the January 30, 2014, compliance date in order to receive a Subpart J compliant approval letter or new IOA.

4. Plans must be submitted to the Coast Guard by January 30, 2014 but the regulations do not state whether or not a vessel can operate in U.S. waters while the plan is under review. Please advise the plan review process and under what approval instrument nontank vessels will be allowed to operate after January 30, 2014.

The VRP Program will issue plan approval letters after a comprehensive VRP review for compliance with the Nontank Vessel Final Rule is completed. Given the short four month compliance date, and in anticipation of the high volume of expected plan submissions that may make it difficult to complete comprehensive VRP reviews in a

timely manner, abbreviated VRP reviews may be conducted. In this case, new IOA letters will be issued for those nontank vessel response plans that meet minimum certification requirements. These new IOA letters will specifically reference “Title 33, Code of Federal Regulations, Part 155, Subpart J” and be valid for up to 2 years or until replaced by a plan approval letter issued by the VRP Program.

5. NTVRP approvals are for 5 years. Is there any way we can stagger approval dates so there is not a huge renewal effort in 5 years?

Approved NTVRPs will be given a 5 year renewal date. However, the VRP Program will accept early NTVRP submissions for 5 year renewals if it will help a plan preparer level out their NTVRP workload over the 5 year period between 2014 and 2019.

6. What do I submit if the NTVRP Interim Operating Authorization (IOA) for the plan that complies with NVIC 01-05, CH-1 expires before January 30, 2014?

You can either submit a plan written to NVIC 01-05, CH-1 or 33 CFR 155 Subpart J.

An expiration date of January 30, 2014, will be approved for those NTVRPs that expire before that date and requesting recertification under the NVIC 01-05, CH1 guidance. NTVRPs expiring after January 30, 2014 will not be reviewed for recertification under NVIC 01-05, CH-1 guidance. NTVRPs expiring after January 30, 2014, must comply with the requirements of Subpart J.

NTVRPs that are submitted for compliance with 33 CFR 155 Subpart J will be reviewed for full 5-year approval.

PREFIRE PLANS

1. Do all regulated nontank vessels require pre-fire plans as described in 33 CFR 155.4035(b)?

No. Pre-fire plans are required of nontank vessels with a carrying capacity of 250 barrels or more. Nontank vessels with a worst case discharge of less than 250 barrels of oil are not required to have pre-fire plans because they are not required to plan for firefighting services in their vessel response plans. [33 CFR 155.5050(i)(3)]

SALVAGE AND MARINE FIREFIGHTING (SMFF) REQUIREMENTS

1. Where can I find more information about SMFF requirements?

SMFF requirements have been in place for tank vessels since February, 2011. Please refer to 33 CFR 155.4010-4055 and information contained on the Coast Guard’s Homeport website at <http://homeport.uscg.mil>.

2. Homeport shows SMFF resource providers with the versions and dates of their most recently accepted SMFF core Geographic Specific Appendices (GSAs). What does Coast Guard acceptance of these documents mean?

The listed versions of SMFF GSAs have been reviewed by the Coast Guard and are accepted for incorporating into VRP GSAs by reference as posted on <http://homeport.uscg.mil> [Missions > Environmental > Vessel Response Plan Program > Salvage and Marine Fire Fighting > Important Documents > Current Core SMFF GSAs].

Acceptable SMFF resource information consists of core GSAs that are submitted to the Coast Guard by SMFF resource providers and are periodically updated, augmented by up-to-date resource listings readily available by electronic means. Prior to approving a Vessel Response Plan that incorporates by reference the SMFF resource provider GSA information, the Coast Guard must first review and accept core GSAs provided by the SMFF resource provider. Conditional acceptance of a core GSA indicates that acceptance is conditioned on correction of errors and omissions found during the review of the listed version, and proper identification of gaps, waiver requests, and approved waivers or approved alternative planning compliance.

Coast Guard acceptance of core GSAs for incorporation into NTVRPs by reference in no way relieves the vessel owner or operator of the requirement to select adequate resources.