

CHAMBER OF SHIPPING OF AMERICA

MONTHLY REPORT FOR THE INTERNATIONAL CHAMBER OF SHIPPING

FOR SEPTEMBER 2013

NOTE TO THE READER: References to the Federal Register may be found at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>. Please note new address and format for Federal Register retrieval due to upgrade in US government website.

References to legislation may be found at <http://thomas.loc.gov/> by entering the bill number (HR 802, S 2841) in the "search bill text" block found at the center of the page.

Non-Tank Vessel Response Plan

(USCG Final Rule, Federal Register, September 30, 2013, pgs. 60100 – 60135)

After over 4 years in the making, the US Coast Guard has finally published its final rule on non-tank vessel response plans (VRP). This final rule requires the creation of vessel response plans (VRP) for non-tank vessels and outlines the contents of these plans which will be submitted for approval to the USCG. This rulemaking is required by the provisions of the Coast Guard and Maritime Transportation Acts of 2004 and 2006 which sets out a statutory mandate requiring tank and nontank vessel owners/operators to prepare and submit response plans.

Under this proposed rule, a non-tank vessel is defined as a self-propelled vessel of 400 gross tons or more that is not a tank vessel operating on US navigable waters carrying oil of any kind as fuel for its main propulsion. Foreign flag vessels engaged in innocent/transit passage not bound for, or departing from, the United States are not required to comply with these requirements.

In addition, this proposed rule would update and align US requirements with existing Shipboard Oil Pollution and Emergency Plan (SOPEP) requirements found in MARPOL, Annex I, Regulation 37 eliminating the need to prepare two separate oil spill response plans.

VRPs must be submitted to the US Coast Guard by January 30, 2014.

In general terms, the plan must identify qualified individuals responsible for response activities, identify and ensure by contract or other approved means the availability of private personnel and equipment necessary to respond to a worst case discharge, include training, equipment testing and drill requirements, be updated periodically and is subject to resubmission and approval for significant changes. Additional requirements include a vessel specifics section and a geographic-specific appendix for each USCG Captain of the Port (COTP) Zone where it intends to operate, subject to the innocent passage exemption e.g. vessels not bound for a US port or place, noted above. As drafted, these new requirements closely mirror existing requirements for tank vessels with

some changes due the differences in potential risks posed by nontank vessels (as opposed to tank vessels) with response requirements set in tiers based on the vessel's fuel and cargo oil capacity (where oil is carried as a secondary cargo).

Due to the level of detail in the final rule regarding plan contents and activation, we do not reproduce these requirements here. Only a careful review of the specific requirements will enable a compliance strategy to be developed. General provisions of note include:

- Per USCG note, NVIC-05 and the NTVRP closely mirror the current tank vessel response plan requirements with the exception that one-time waivers and 5- year plan approvals were added to the final rule
- Scaled response requirements are provided for based on fuel capacity with the breakdowns at 2,500 bbls or more, less than 2,500 bbls but greater than or equal to 250 bbls and less than 250 bbls.
- VRP may be submitted electronically to the USCG - see <http://evrp.uscg.mil>; in particular see "VRP tutorial" link on this homepage
- Electronic copies or hard copies of the VRP must be kept aboard
- It is not necessary that the entire VRP be kept onboard but rather only those sections necessary to initiate notifications and crew response e.g. general information and introduction, notification procedures, shipboard spill mitigation procedures, list of contacts, training procedures, exercise procedures, geographic specific index and vessel specific appendix
- Annual plan review reporting requirement has now been eliminated
- Requirements for one-time waivers are included
- Provisions for submission of Alternative Planning Criteria are included and are focused on interim measures necessary for remote areas where all required response services may not be available in the response times required
- Owners of multiple vessels may submit one plan for multiple vessels however, each vessel's VRP must have a vessel specific section
- VRP control number must be submitted as part of the NOA information
- Regulatory text of final regulations can be found at pgs. 60120-60135