

## **One-Time Port Waivers for VRP and NTVRP – General Guidance to Members**

This circular provides general guidance to Members on the process for requesting a One-Time Port Waiver to Vessel Response Plans (VRP) or Nontank Vessel Response Plan (NTVRP) requirements as relevant to Members.

### **Introduction**

- Vessels arriving in U.S. ports must comply with the respective requirements to submit VRP or NTVRP status as part of an advance notice of arrival.
- This circular provides recommendations to Members when applying for one-time waivers to the requirements for a VRP and NTVRP.
- Failure to adequately prepare a VRP, NTVRP, or one-time waiver could result in costly delays and damages.

### **Requirements for VRP and NTVRP in U.S. waters**

Pursuant to the Oil Pollution Act of 1990 (OPA 90) owners or operators of tank and nontank vessels are required to prepare and submit oil discharge response plans for certain vessels operating on the navigable waters of the United States. The purpose of these requirements is to support pollution response planning and preparedness in order to limit the environmental damage resulting from tank and nontank vessel marine casualties.

The implementing VRP regulations apply to a vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or oil cargo residue, and that:

- (1) is a vessel of the United States;
- (2) operates on the navigable waters of the United States; or
- (3) transfers oil in a port or place subject to the jurisdiction of the United States must comply with the requirements in 33 CFR 155 subpart D (“Tank Vessel Response Plans for Oil”).

Similar provisions exist for NTVRP under 33 CFR 155 subpart J, which apply to each self-propelled vessel that:

- (1) carries oil of any kind as fuel for main propulsion;
- (2) is not a tank vessel or is not certificated as a tank vessel;
- (3) operates upon the navigable waters of the United States, as defined in 46 U.S.C. 2101(17a); and
- (4) is 400 gross tons or more as measured under the convention measurement system in 46 U.S.C. 14302 or the regulatory measurement system of 46 U.S.C. 14502 for vessels not measured under 46 U.S.C. 14302.

# BLANKROME

And, 33 CFR 155 Subpart J applies to vessels carrying oil as secondary cargo and that meet the aforementioned requirements.

The applicable VRP and NTVRP regulations also set forth the general and specific response plan requirements for respective vessel types, as well as the procedures for plan submission, approval, requests for acceptance of alternative planning criteria, appeal, review revision, amendment, and appeal. *See* 33 CFR Part 155, subparts D and J. Of particular interest to Members is the potential to seek a one-time waiver from certain VRP and NTVRP requirements.

## **One-time Port Waivers**

When a vessel arrives at a U.S. Coast Guard Captain of the Port (COTP) zone for the first time, the vessel owner or operator can request a one-time waiver from the COTP. We note, however, these waivers are discretionary based on the facts at hand. For example, Members may need to seek a one-time waiver if a vessel has changed ownership since the annual response plan submission, or if the vessel is on a time-sensitive voyage calling on a U.S. port for which a response plan has not previously been prepared.

The requirements and procedures for VRP and NTVRP one-time waivers are set forth in regulation and U.S. Coast Guard policy. Members should be aware that while the requirements are similar, separate regulations address either tank or nontank vessels.

Tank vessels are authorized under 33 CFR 155.1025(e) to request a one-time port waiver if all the following requirements are met:

- (1) Owner or operator has a valid VRP or Shipboard Oil Pollution Emergency Plan (SOPEP);
- (2) The plan is onboard the vessel;
- (3) A Qualified Individual (QI) has been identified to the master of the vessel; and
- (4) The owner or operator has identified through a contract or other approved means the private resources necessary to respond to the maximum extent practicable or a worst case discharge from the vessel in that zone.

A template for a VRP one-time waiver submission is available in [CG-543 Policy Letter 09-02](#).

Similar waiver provisions are available for nontank vessels under 33 CFR 155.5025(a). If a nontank vessel owner or operator seeks a one-time port waiver, they must first certify in writing that they have met the requirements of:

- (1) 33 CFR 155.1025(e)(1) through (3); and
- (2) The vessel owner or operator has identified and ensured the availability of, through contract or other approved means, the private response resources necessary to respond, to the maximum extent practicable under the criteria in § 155.5050 to a worst case discharge or substantial threat of discharge from the vessel in the applicable COTP zone.

# BLANKROME

Once the vessel owner or operator satisfies these requirements, the cognizant U.S. Coast Guard COTP may grant written authorization for that nontank vessel to make one voyage in the respective geographic-specific area not covered by the vessel response plan.

## **Best Practices and Recommendations**

One-time waivers may be of unique value to owners and operators in certain situations. However, these waivers are highly discretionary. In other words, meeting all the requirements does not in itself guarantee that the waiver will be issued – the COTP may grant the waiver, but is not required to do so. Local knowledge of the cognizant COTP practice in reviewing and granting these waivers is thus of particular value to Members in preparing a waiver submission.

Also, Members should be aware plans may be deactivated due to change in vessel ownership. In such cases, plans may be resubmitted with a new certifying statement confirming the plan's accuracy or revised and submitted for approval. If a plan has been deactivated for any reason, the U.S. Coast Guard will likely require submission of a new plan, which should be submitted for approval 60 days in advance of coming to the United States. Failure to have awareness of the status of a VRP or NTVRP could cause unnecessary delay or denial of entry to a U.S. port. The Coast Guard maintains a [VRP database](#) with the status of such plans.

Failure to have an approved VRP, NTVRP, or one-time waiver for either may lead to a vessel being placed off-hire for the waiting period leading to significant damages and losses by owners.

In all cases, advance preparation and timely submission of a new plan or one time waiver request is critical. In a situation that is not routine, early and frequent engagement with the U.S. Coast Guard is imperative to avoid surprises, problems, and delays.