

Dear Sirs,

NEW ALASKAN REGULATIONS FOR NONTANK VESSEL FINANCIAL RESPONSIBILITY AND CONTINGENCY PLANS

On the 27th November, 2002 the State of Alaska enacted new Regulations changing existing requirements in respect of financial responsibility and contingency plans for non-tank vessels trading in its waters. The newly required discharge prevention and contingency plans need to be submitted for approval to the Alaska Department of Environmental Conservation (ADEC) by 27th May, 2003.

Financial Responsibility

The Regulations do not alter the amount of financial responsibility required under State Law for non-tank vessels. An application for approval of financial responsibility must be submitted to ADEC at least 15 days before the vessel commences operations in State waters. Evidence of financial responsibility, required for all non-tank vessels exceeding 400 gross tons, can still be demonstrated by, inter alia, proof of entry of the vessel in a P&I Club. It must generally be renewed annually and applications for renewal must be submitted not less than 30 days nor more than 90 days prior to its expiry. If P&I cover is used as evidence of financial responsibility, confirmation of renewal of the P&I cover must be submitted no later than 60 days after such renewal.

However, from the date of enactment, the separate proof of financial responsibility that had to be provided in respect of deductibles applying to any insurance used to demonstrate financial responsibility is now only required in respect of deductibles exceeding \$50,000. Before these Regulations came into force, any deductible, regardless of size, needed separate proof of financial responsibility.

Contingency Plan Requirements

As of 27th November, 2002 non tank vessels now require approved oil discharge prevention and contingency plans. These plans have to be submitted to ADEC for approval by 27th May, 2003. From that date vessels exceeding 400 GT may not operate in Alaskan waters unless application for approval has been submitted.

The Regulations allow for two types of plan, the Equivalent Plan and the Streamlined Plan.

Equivalent Plan

This is for companies intending to use their own clean-up resources and capabilities, and provide their own incident management team to respond to an oil spill. The criteria for approval is extremely thorough and detailed, and an applicant must inform ADEC of their intent to submit an application for approval 60 days before doing so. The Regulations do not state how long ADEC has to review such a plan. Given the operational cost of putting such a plan into place, it is unlikely that many shipowners would opt for this.

Streamlined Plan

This is for applicants who wish to employ State-approved clean-up contractors and incident

management services. The Regulations give ADEC five days to approve an application for a Streamlined Plan.

Applications for such a Plan must contain a statement by an individual who has authority to commit resources necessary to implement the Plan - the "Authorised Individual". This person does not need to be available in the event of a discharge or be resident in Alaska. The State Approved Vessel Response Plan is renewable every three years, and has to cover each region of the vessel's operation. There are 10 clearly defined regions under the Regulations and the Plan has to comply with the Regulations in each of the regions in which the vessel intends to operate. The Plan must identify

- A Qualified Individual (who would perform the same functions as a Qualified Individual for a tank vessel as per federal regulations),
- An Incident Management Team, and
- An Oil Spill Cleanup Contractor.

The Regulations also provide for approved "Response Planning Facilitators" (RPF).

An approved RPF may submit a Streamlined Plan on behalf of a non-tank vessel.

An approved RPF can either:

Type 1) Act as an intermediary between the applicant and the Qualified Individual, cleanup contractors and incident management teams, or

Type 2) Enter directly into agreements with cleanup contractors and incident management teams. Vessel owners and operators can then contract with the RPF directly in order to access the clean-up contractors and the incident management teams.

Given the amount of work involved in the Plan application and approval process, being able to use an RPF will assist owners' of vessels on spot charters or vessels which do not regularly call in the Alaska.

The roles of the RPF, Authorised Individual and Qualified Individual can be fulfilled by one person. Where a Type 2) RPF is involved, unless an owner specifies the use of a separate Qualified Individual (QI) the Type 2) RPF will be the default QI. In the event of a casualty, the Type 2) RPF will be the first person contacted: he will then mobilise the Incident Management Teams and clean-up Contractors, as well as the QI if the owner has chosen to include one in his plan.

A number of organisations have already been approved by ADEC to act in the various capacities outlined in the New Regulations.

Response Planning Standards

The clean-up resources contracted under the plan must be capable of arriving at a casualty in their region of operation within 24 hours of any discharge and have sufficient storage, transfer and clean-up equipment, personnel and other resources to contain and control 15% of the maximum oil storage capacity of the vessel within 48 hours. Any discharge must be cleaned up within the shortest possible time consistent with minimising damage to the environment.

Enforcement

Under the Regulations ADEC has authority to conduct announced and unannounced inspections of vessels to verify compliance with the Regulations. Furthermore, announced and unannounced discharge exercises can also be conducted to ensure that the Vessel Response Plans are adequate in content and execution.

It is suggested that Members with non-tank vessels trading to Alaska consult with the Club to ensure that any contract that they wish to enter into, to comply with these Regulations, conforms with Group guidelines.

Yours faithfully,

THE STEAMSHIP MUTUAL UNDERWRITING ASSOCIATION (BERMUDA) LIMITED

B.387