

27 May 2003

TO ALL MEMBERS

Dear Sirs

Alaskan Regulations for Non-Tank Vessel Financial Responsibility & Contingency Plans

On 27 November 2002 the State of Alaska enacted new oil pollution Regulations changing existing requirements in respect of financial responsibility and contingency plans for non-tank vessels trading in its waters and which come into force with effect from 27 May 2003.

Financial Responsibility

The Regulations do not alter the amount of financial responsibility which non-tank vessels are required to prove under State Law to obtain a certificate of financial responsibility. An application for approval of proof of financial responsibility must be submitted to ADEC (Alaska Department of Environmental Conservation) at least 15 days before the vessel commences operations in State waters. Proof 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. The certificate 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.

However, after 27 May, the separate proof of financial responsibility that had to be provided in respect of deductibles applying to any insurance 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 Plans

With effect from 27 May, non-tank vessels exceeding 400 GT will be required to have Oil Discharge Prevention Contingency Plans. These plans have to be submitted to ADEC for approval prior to entry into Alaskan waters.

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 accidental discharge. The criteria for approval are 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 allow ADEC five days within which to approve a Streamlined Plan.

Applications for approval of such a Plan must contain a Statement by an "Authorised Individual" certifying that he has the requisite authority to sign the Application and commit resources necessary to implement the Plan on behalf of the Applicant and affirming the correctness and

truthfulness of the information contained within the Application. The Authorised Individual does not need to be available in the event of a discharge or be resident in Alaska. The State-approved Oil Discharge Prevention Contingency Plan is renewable every three years and has to cover each region in which the vessel operates. There are 10 clearly defined regions under the Regulations and the Plan has to comply with the Regulations applying to each of the regions. The Plan must identify:

- A Qualified Individual (“QI”) (who will be required to perform the same functions as a QI for a tank vessel under Federal Regulations).
- An Incident Management Team.
- An Oil Spill Clean-up 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 vessel owner or operator and the QI, Oil Spill Clean-up Contractors, and Incident Management Team, or

“Type 2” Enter directly into agreements with QIs, Oil Spill Clean-up Contractors, and Incident Management Teams. Vessel owners and operators can then contract with the RPF directly in order to access the QI, Oil Spill Clean-up Contractors, and Incident Management Team.

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

The roles of the RPF, Authorised Individual and Qualified Individual can be fulfilled by one person. Accordingly, where a “Type 2” RPF is involved, unless a vessel owner or operator specifies the use of a separate 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 Team and Clean-up Contractors, as well as the QI if the vessel owner or operator has chosen to include one in his plan.

Response Planning Standards

In order to obtain approval by ADEC, the Oil Spill Clean-up Contractors 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 Oil Discharge Prevention Contingency Plans are adequate in content and execution.

Members with non-tank vessels trading to Alaska are advised to consult the Managers to ensure that any contract that they wish to enter into, to comply with these Regulations, conforms with Group guidelines.

Yours faithfully
A BILBROUGH & CO LTD
(MANAGERS)