

July 1995

**TO ALL MEMBERS OF CLASS 3 -
PROTECTION AND INDEMNITY**

The Britannia Steam Ship
Insurance Association Limited

Oil Pollution Legislation Up-date - United States and Canada

Canada

As Members will be aware, with effect from 4th April 1995, Regulation 26 of Annex 1 of the International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 (MARPOL 73/78) requires all tankers of 150 tons gross tonnage and above and every other vessel of 400 tons gross tonnage and above to maintain on board a Shipboard Oil Pollution Emergency Plan ("SOPEP") as approved by the vessel's flag state administration.

Chapter 36 of the Canada Shipping Act - Oil Pollution Prevention Regulations incorporated this MARPOL 73/78 requirement into Canadian law. A number of additional requirements have also been introduced, which include:

1. Each vessel must enter into an agreement with a certificated oil spill response organisation ("OSRO") capable of responding to a spill of up to 10,000 tons of oil for any and each region south of latitude 60°N in which the vessel will operate. The Canadian Coastguard will continue to remain responsible for dealing with spills north of latitude 60°N.
2. In addition to the SOPEP each vessel must maintain on board statements:
 - (i) citing the name and address of the ship's oil pollution liability insurer;
 - (ii) identifying every person who is authorised to implement the SOPEP (who should be the Master or other person in charge of the vessel);
 - (iii) evidencing an arrangement with a certified OSRO based in the region in which the vessel is operating; and
 - (iv) identifying the persons authorised to implement this OSRO arrangement. The persons so authorised need not be based in Canada but must be available on a 24 hour basis.

As stated above, the MARPOL requirements came into force in Canada on 4th April 1995 and implementation of the above additional requirements was originally scheduled for the same date. However, the implementation process has been substantially delayed.

The Canadian Coastguard have now confirmed that requirements 2(i) and (ii) above will be effective as from **31st July 1995**. It appears that all that will be needed to satisfy these requirements is a letter on the shipowner's note paper held on-board the ship stating the ship's name, the name and address of the ship's P&I insurers and the person authorised to implement the SOPEP.

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With regard to requirements 2(iii) and (iv), these cannot yet be implemented given that the response corporations which have been formed to meet those requirements have not yet received Canadian Coastguard certification and are unlikely to do so until after 15th August 1995 and possibly not before November or December this year. The Canadian Coastguard has confirmed that requirements (iii) and (iv) will thus not be enforced prior to 15th August.

Canadian Oil Spill Response Organisations (“OSROs”)

Three response organisations are seeking Canadian Coastguard certification to respond to spills of up to 10,000 tons, namely:

Burrard Clean Inc (covering the British Columbian coastline), Eastern Canada Response Corporation (covering the Hudson Bay, Labrador Coast and the Gulf of St Lawrence) and Great Lakes Response Corporation (covering the Canadian waters of Lake Superior, Lake Huron, Lake Erie and Lake Ontario).

In addition, two smaller OSROs capable of responding to spills of up to 2,500 tons (namely Point Tupper Response Corporation and St John Response Corporation) will cover specific sections of the Newfoundland and Nova Scotia coastlines.

Members should be aware that the International Group of P&I Clubs is currently reviewing the draft contracts prepared by the first three above-named organisations. That process of review is on-going and no decision has yet been taken by the International Group although none of the contracts so far seen complies with International Group guidelines concerning the allocation of responsibility under oil spill response service contracts. Members are encouraged to contact the Club on a case by case basis to check the status of individual contracts although a further circular may be issued once the contract review process is complete.

United States of America

MARPOL 73/78

Members should be aware that MARPOL requirements apply to vessels trading in US waters as from 4th April 1995. Accordingly, all oil tankers over 150 tons gross tonnage and other vessels of over 400 tons gross tonnage must maintain on-board SOPEPs. The United States Coastguard has indicated that it intends to deal strictly with any failure to comply with such regulations.

Members with tankers or tank vessels of over 300 grt trading to the States are already obliged to provide vessels with Vessel Response Plans pursuant to OPA 90, (which plans have been required since 18th August 1993) and as such should be in compliance with MARPOL requirements. In many States in the USA, the vessel response plan requirements are equally applicable to dry cargo vessels and accordingly Members with dry cargo vessels trading to these States may already have vessel response plans on-board the vessels which should be sufficient to comply with MARPOL requirements.

California

With effect from 1st July 1995, tankers and tank barges trading to California need to be able to show proof of financial responsibility in respect of oil pollution in the amount of USD 750 million in order to obtain a California Certificate of Financial Responsibility (“COFR”).

Following representations by industry and the International Group, a bill was introduced in California to lower this amount to USD 700 million and this bill is now awaiting signature by the Governor of California. Given the delays in the bill's implementation, the Department of Fish and Game has indicated that the deadline of 1st July 1995 for these regulations will be extended by 35 days.

Members will recall that previously the level of financial responsibility needed to be evidenced was USD 500 million and that this could be shown by production of a certificate of the vessel's entry with the Club. The Club certificate of entry is still satisfactory evidence of financial responsibility in respect of the first USD 500 million of the USD 700 million. Evidence of financial responsibility in respect of the USD 200 million excess of USD 500 million can be provided if Members take advantage of the facility arranged by the International Group's brokers, for the additional USD 200 million oil pollution cover which has been available since 20th February 1993. The Californian Department of Fish & Game's Office of Oil Spill Prevention and Response have now agreed that the cover notes in respect of this cover previously provided by brokers will satisfy Californian requirements for the time being (at least for this policy year). Notwithstanding the 35 day extension granted by the Californian authorities, Members are recommended to file evidence of financial responsibility for the additional USD 200 million as soon as possible.

Washington

Until recently, Members with vessels (whether tank vessels or dry cargo vessels) calling in Washington State have been able to subscribe to an "umbrella" response plan filed by the Washington State Maritime Commission ("the Commission"). This Commission ceased to exist from 1st July 1995.

The organisation formed to replace the Commission, the Washington Maritime State Cooperative ("the Cooperative") has produced a draft enrolment agreement for use by shipowners which does not conform with International Group guidelines and discussions are now taking place between the International Group and the Cooperative on this contract. Members intending to call at Washington ports are recommended to contact the Association for more information.