

Benefits of the NTVRP revealed

And now Philip Stevenson, of the Standard Club, outlines a recent casualty in US waters

A phone call from the master at four o'clock in the morning saying your containership has run aground in US waters and is spilling oil may be one of your "nightmare" scenarios. The requirement since 30 January 2014 that non-tank vessels trading in US waters must submit vessel response plans (NTVRPs) with the US Coast Guard (USCG), ensures shipowners should at least have the initial systems in place for dealing with a major casualty. However, owners need to appreciate the number of parties who may become involved and your P&I Club must have a strong grip on the necessity and costs of the resources deployed.

The first phone call a master should make when a casualty has led to, or is likely to lead to pollution in the US, is to the qualified individual (QI) identified within the VRP. The QI will obtain all relevant information from the master "in one hit" and pass this on to the USCG, state and port authorities, the oil spill response organisation (OSRO) and salvage and marine fire fighting (SMFF) salvor designated in the VRP. The QI makes the proper notifications under US law, which ensures owners retain their rights to limit liability and avoid fines.

Under US law, all oil spills are managed in a unified manner by the USCG, local state and the QI, who form the "unified command" of the incident command system (ICS). The ICS is usually up and running within 48 hours and comprises media response, operations, planning, logistics and finance. Media response is vital, particularly in the US, and having pre-contracted media response consultants to host press conferences at the ICS and set the media agenda will take a huge burden from a shipowner's shoulders.

The number of personnel within the ICS can be large, often taking over a hotel conference room and working shifts on a 24/7 basis. Your P&I club will have a representative attend the ICS, to ensure the resources and personnel engaged are reasonable and proportionate to the casualty. Your club will engage with auditors to monitor the costs and instruct environmental science experts to assess the reasonableness of the natural resource damage assessment (NRDA) claims brought under US law. In a major casualty in the US, it is not unheard of for the daily cost rate to be in excess of US\$1m per day.

Aside from pollution response, the VRP will ensure your SMFF contractor is on the scene with relevant assets and has drawn up a salvage plan within specific response timeframes. SMFF contracts may allow for pre-agreed tariffs or Lloyds Open Form salvage contracts to be engaged, depending on the severity of the casualty. Importantly, they allow for an owner's representative (similar to a special casualty representative) to attend onboard and monitor salvage activities.

If the casualty is a containership, your club will assist owners in engaging with experts for the container removal and disposal plan, to be approved by the authorities. Depending on when the ship has reached a place of safety and the salvors are stood down, the club will co-ordinate a tender process for the removal of the wetted containers. Contracts with storage yards



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for the wetted containers will have to be carefully reviewed with respect to the rates and liability provisions. An on-carriage, salvage and disposal programme should be drawn up for the wetted containers.

Owners will need to carefully consider whether to declare general average (GA), taking advice from average adjusters on the recoverable expenses under GA against the ship's and cargo's sound value. While the costs of a GA exercise on containerships can be high, there is a huge side-benefit of obtaining early cargo information, to ascertain dangerous cargo onboard and to facilitate on-carriage/salvage/disposal of the containers. In addition, bearing in mind salvors will also be seeking salvage security from cargo interests, the collection of GA security at the same time will not increase significantly the adjuster's fees.

While a major casualty in US waters is never going to be easy, the introduction of compulsory NTVRPs has gone a long way to ensuring systems and contracts are already in place allowing owners sufficient "breathing space" to create a strong emergency response team to handle the many aspects which need to be considered in short order. *MRI*



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